

Freie Universität Berlin

John-F.-Kennedy-Institut für Nordamerikastudien

Abteilung Geschichte

Passing gay rights in Wisconsin, 1967-1983

Freie wissenschaftliche Arbeit zur Erlangung des Grades einer Magistra Artium

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Abgabe: 12. November 2010

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Passing gay rights in Wisconsin, 1967-1983

Contents

| | |
|--|-----------|
| 1. Introduction | 4 |
| 1.1 <i>Research to date and thesis statement</i> | 6 |
| 1.2 <i>Literature and sources</i> | 8 |
| 2. Two backgrounds: Lesbian and gay politics and Wisconsin politics of the 1970s | 14 |
| 2.1 <i>Situating Wisconsin's gay rights law in the history of gay men and lesbians in the United States</i> | 14 |
| 2.1.1 <i>Interpreting same-sex desire in America: religion, the law, and medicalization</i> | 15 |
| 2.1.2 <i>World War II and the postwar years: A homosexual minority forms in the U.S.</i> | 17 |
| 2.1.3 <i>The invention of gay rights</i> | 18 |
| 2.1.4 <i>Stonewall and what followed: gay and lesbian politics in the 1970s</i> | 20 |
| 2.1.4.1 <i>Lesbians between gay liberation and women's liberation</i> | 21 |
| 2.1.4.2 <i>A place at the table: Lesbian and gay politics enter mainstream politics</i> | 22 |
| 2.1.5 <i>1977: Anita Bryant and the backlash against gay rights</i> | 23 |
| 2.1.6 <i>A lesbian and gay community develops in Wisconsin</i> | 25 |
| 2.2 <i>Wisconsin politics of the 1970s and early 1980s: Protest and (the limits of) progressive politics</i> | 27 |
| 2.2.1 <i>Progressivism's legacy in the Democratic and Republican state parties</i> | 28 |
| 2.2.2 <i>Protest in Milwaukee and Madison in the late 1960s</i> | 31 |
| 2.3 <i>How a bill becomes law in Wisconsin</i> | 34 |
| 3. Passing gay rights in Wisconsin: a sixteen-year process | 37 |
| 3.1 <i>Sexuality in Wisconsin law in 1967</i> | 37 |
| 3.2 <i>Early efforts to change the law: Lloyd Barbee</i> | 41 |
| 3.3 <i>"He handed the baton to me:" David Clarenbach takes over gay rights legislation</i> | 43 |
| 3.4 <i>1978: A year of crisis. The effort to repeal Madison's gay rights ordinance</i> | 47 |
| 3.5 <i>Building support for state-wide legislation, 1979-1981</i> | 54 |
| 3.5.1 <i>In Madison: Trying to pass consenting adults in the 1979-80 session</i> | 54 |
| 3.5.2 <i>In Milwaukee: lesbian and gay community pressure, a local gay rights ordinance, and church organizing</i> | 57 |
| 3.6 <i>Passing AB 70, 1981/82</i> | 61 |
| 3.6.1 <i>Short by one vote: Another try to pass consenting adults, 1981</i> | 62 |
| 3.6.2 <i>Introducing the anti-discrimination bill – whose anti-discrimination bill?</i> | 64 |
| 3.6.3 <i>The bill's route through the legislature</i> | 68 |

| | | |
|-----------|---|-----------|
| 3.6.4 | Key to success: church support | 72 |
| 3.6.5 | Counting votes, cutting the deals, creating smoke and mirrors, and circumventing pitfalls | 77 |
| 3.6.6 | Last-minute suspense and a happy ending | 82 |
| 3.7 | <i>After passage: The construction of a myth</i> | 84 |
| 3.8 | <i>1983: After fifteen years, consenting adults passes</i> | 88 |
| 4. | Conclusion: Grassroots work <i>and</i> a place at the table | 90 |
| 5. | Appendix | 93 |
| | <i>List of abbreviations</i> | 93 |
| | <i>Photographs of the bill signing</i> | 94 |
| | <i>Oral history interviews conducted by the author</i> | 96 |
| | <i>List of illustrations and picture credits</i> | 97 |
| | <i>Bibliography</i> | 98 |
| | Primary sources | 98 |
| | Archival sources | 98 |
| | Other primary sources | 104 |
| | Secondary sources | 109 |
| | <i>Acknowledgments</i> | 120 |

1. Introduction

On February 25, 1982, Wisconsin became the first U.S. state to protect lesbians and gay men from discrimination in employment, housing, and public accommodations. In the 1981/82 legislative session, the anti-discrimination bill, also called the gay rights bill, passed both houses of the legislature with votes from the Democratic as well as the Republican parties. When Republican governor Lee Sherman Dreyfus added his signature to the bill, it became Chapter 112, Wisconsin laws of 1981, and “sexual orientation” was added to the list of non-discrimination categories in Wisconsin's existing laws: political or religious opinion or affiliation, age, sex, handicap, race, color, national origin, and ancestry.¹

Wisconsin's move to the forefront of gay rights came as a surprise to many.² It surprised the lesbian and gay communities on the east and west coasts, many of whom had escaped the Midwest for the freedom that cities like San Francisco, Boston or New York offered.³ The coasts were perceived as the centers of gay rights activism. The Midwest maintained its conservative image despite the considerable accomplishments that lesbians and gays had achieved there.⁴ What is more, 1982 seemed an unlikely year for gay progress for anyone not familiar with Wisconsin's political situation. After all, the United States were in the middle of a conservative renaissance. Since the mid-seventies, a backlash was forming against the cultural and political changes of the 1960s. To many conservative religious Americans, especially evangelical and fundamentalist Christians, the cultural changes summarized under the term of the sexual revolution were extremely disquieting: the casual approach of many young men and women toward pre-marital sex, the demand of women in the women's liberation movement for control over their bodies – including the right to abortion – the spreading availability of pornography, and the growing visibility of a newly self-confident gay and lesbian community.⁵

¹ Kulieke, Stephen. “Wis. governor signs gay rights bill.” *Chicago GayLife*, March 5, 1982.

² I am using “gay rights” to refer to the rights of both gay men and lesbians, and will use the term “gay” in an inclusive manner in this thesis. To specifically refer to male homosexuals, I will refer to “gay men.”

³ Stults, Eric. “Churches help pass rights law in Wisconsin.” *Equal Times*, March 3, 1982, 13.

⁴ For example, the first openly gay or lesbian person elected to any office in the country was Kathy Kozachenko, who was elected to the Ann Arbor, Michigan, city council in April 1974. Many communities in the Midwest adopted local gay rights ordinances in the early 1970s, such as Ann Arbor and East Lansing, Michigan, and St. Louis, Missouri. Minnesota's positive gay record will be described in chapter two. Haider-Markel, Donald P. “The Politics of Gay Rights.” In *The American Midwest. An interpretive encyclopedia*. Edited by Richard Sisson, Christian K. Zacher and Andrew R. L. Cayton, 1667–8. Bloomington: Indiana University Press, 2007, 1667.

⁵ Although the terms “evangelicalism” and “fundamentalism” are often used synonymously, they describe different Christian theologies and groups, even if the differences are hard to pin down. According to the *Encyclopedia of American Religious History*, evangelicals emphasize “individual conversion, the authority of scripture and moral and social reform.” Their emphasis on reform is derived from their belief in an individual's ability “to accept or reject God's grace.” This distinguishes them from the belief in predestination common to

Two manifestations of some of these changes especially shook up conservative believers. In 1972, the U.S. Congress passed the Equal Rights Amendment (ERA), a constitutional amendment designed to bar discrimination on the basis of sex. And in 1973, in its landmark decision *Roe v. Wade*, the U.S. Supreme Court legalized abortion. In the wake of these events, many religious Americans who had long refrained from political involvement started to organize. Fundamentalists were first stirred to become politically active when Democrat Jimmy Carter, the governor of Georgia and a born-again Christian, ran for president in 1976. Carter, who was on record as opposing the discrimination of homosexuals, made his religious beliefs a key issue in his campaign and courted Southern evangelical Christians. They helped him win the election, but Carter's liberal perspectives, and the fact that he did not put evangelicals in positions of power, quickly drove them away from him again.⁶ In the late 1970s, a religious coalition emerged that linked evangelicals, fundamentalists, conservative Roman Catholics and Orthodox Jews in their fight against abortion and the erosion of the traditional family model, even if they held on to very different beliefs on other issues. In June 1979, a political organization was founded to fight abortion, but also divorce, pornography, homosexuality and other perceived evils by registering conservative voters and mentoring them on how to become active in the political process. It was called *Moral Majority*, and Jerry Falwell, a Baptist preacher from Virginia whose television program *Old Time Gospel Hour* was viewed by a nationwide audience, became its leader.⁷ *Moral Majority* sought the support of everyone backing its political agenda, irrelevant what religion they belonged to. The efficiency of the Religious Right's organizing efforts was demonstrated at the 1980 convention of the Republican Party, when the party's earlier support for the ERA was withdrawn from the party platform, and a constitutional amendment to outlaw abortion was adopted.⁸ Republican presidential candidate Ronald Reagan courted this new conservative force, and when he swept forty-four of the fifty U.S. states, and ninety-one percent of the electoral votes, in the 1980 presidential elections, millions of votes came from evangelical and

many other Protestant churches. Fundamentalism emerged from evangelical Protestantism, but is different from it in that its tenets are "biblical inerrancy, dispensationalism, strict morality, and religious separatism." Dispensationalism denies the belief held by many Protestant churches that "human beings could establish God's kingdom through their own moral efforts." By contrast, "[d]ispensationalists placed virtually no value on human achievement, stressing instead the absolute sovereignty of God over history." Queen, Edward L. "fundamentalism (Protestant)," "evangelicalism," Shattuck, Gardiner H. "dispensationalism." In *Encyclopedia of American religious history*. Edited by Edward L. Queen, Stephen R. Prothero and Gardiner H. Shattuck, 1. New York: Facts On File, 1996.

⁶ Clendinen, Dudley, and Adam Nagourney. *Out for good: The struggle to build a gay rights movement in America*. New York NY: Simon & Schuster, 1999, 271-284.

⁷ Martin, William C. *With God on our side: The rise of the religious right in America*. 1. ed. New York, NY: Broadway Books, 1996, 200-204, 212-213.

⁸ *Ibid.* 213.

fundamentalist Christians.⁹ During his predecessor Jimmy Carter's presidency, a group of gay and lesbian leaders had been invited to the White House for the first time in history. By contrast, Reagan's first meeting with a citizen group was with the National Right to Life Committee, an anti-abortion group.¹⁰ 1982 was also the year in which the ERA died, not having been ratified by the required three-fourths of U.S. states.¹¹ In short, the prospect for gay rights seemed bleak.

Wisconsin remained the only state with a gay rights law until 1989, when Massachusetts passed a similar bill.¹² In the 1990s, ten other states passed anti-discrimination legislation for gays and lesbians, and nine others added such a law in the 2000s. Until today, only twenty-one states have some kind of protection against discrimination on the books for gays and lesbians, and there is no such federal law, either.¹³ Wisconsin's gay rights law thus stands out in the time line of the expansion of rights to lesbians and gay men. How is it possible that this Midwestern state took the vanguard in passing a state-wide gay rights law? This thesis endeavors to tell the history of Wisconsin's gay rights law in the context of the state's political history as well as in the nation-wide context of the gay rights movement.

1.1 Research to date and thesis statement

While there has been no comprehensive history of the accomplishment to this day, there are two scholarly articles that take a closer look at the 1982 law. In his essay "Lesbian and gay politics in the states: interest groups, electoral politics, and policy," political scientist Donald P. Haider-Markel uses Wisconsin as a case study in gay-related civil rights policy in the states.¹⁴ He stresses the centrality of Democratic representative David Clarenbach in getting the law passed. He describes four parts of Clarenbach's strategy: "(1) to present the bill as a civil rights measure consistent with Wisconsin's progressive tradition, (2) to defuse the morality issue by seeking support from main-line religious organizations, (3) to gather

⁹ Ibid. 214- 219.

¹⁰ Courtwright, David T. "Which sides are you on? Religion, Sexuality, and Culture-War Politics." In *The Columbia history of post-World War II America*. Edited by Mark C. Carnes, 311–39. New York, NY: Columbia Univ. Press, 2007, 326

¹¹ Boyer, Paul. *The Enduring Vision: A History of the American People*. 5th ed. Boston/New York: Houghton Mifflin, 2004, 938, 942.

¹² Turner, William B. "The Gay Rights State: Wisconsin's Pioneering Legislation to Prohibit Discrimination Based on Sexual Orientation." *Wisconsin Women's Law Journal* 22, no. 1 (2007): 91–132. Website Wisconsin Journal of Law, Gender & Society <http://hosted.law.wisc.edu/wjlg/issuues/2007-spring/turnernobanner.pdf>, 100.

¹³ Human Rights Campaign Map, "Statewide Employment Laws and Policies," http://www.hrc.org/documents/Employment_Laws_and_Policies.pdf, accessed December 15, 2009; Human Rights Campaign, "Employment Non-Discrimination Act," http://www.hrc.org/laws_and_elections/enda.asp, accessed December 15, 2009.

¹⁴ Haider-Markel, Donald P. "Lesbian and gay politics in the states: interest groups, electoral politics, and policy." In *The Politics of Gay Rights*. Edited by Craig A. Rimmerman, Kenneth D. Wald and Clyde Wilcox, 290–346. Chicago and London: The University of Chicago Press, 2000.

bipartisan support for the bill, and (4) to use gay and lesbian activists to do the ground work in building political support.”¹⁵

William Turner's article “The gay rights state: Wisconsin’s pioneering legislation to prohibit discrimination based on sexual orientation” places the law in the context of civil rights history and the expansion of civil rights protections to lesbians and gay men in the United States.¹⁶ His focus is on legal aspects of the law. Like Haider-Markel, Turner presents David Clarenbach as not only the key actor, but as the person almost solely responsible for the passage of the law.¹⁷ He positions Clarenbach's framing – the argumentative strategy that he used – within two kinds of argumentative frameworks: equality v. morality, or interest-group politics v. morality politics. Turner argues that Clarenbach was successful because he managed to avoid the morality frame.¹⁸ He also mentions the “Wisconsin Progressive tradition as a necessary background condition.”¹⁹ Both essays presume that a single man, representative David Clarenbach, had the means, power, and control to get this law passed. Their analyses are thus largely limited to his person, to his political career and standing and to the rhetorical framework he used.

While both essays offer a convincing analysis of Clarenbach's strategy, I believe that their focus on him fails to explain the bill's passage. After all, the legislative process is not a one-man show, and a good rhetorical strategy not enough to pass a bill. A majority of legislators must be convinced of the merit of a bill, and, more importantly, they must be convinced that their constituents will agree with, or at least not be upset by their position. Otherwise, they risk their political career. Awarding one man all the merit for a bill's passage seems oddly incoherent with the idea of a representative democratic system. Haider-Markel's claim that Clarenbach “use[d] gay and lesbian activists to do the ground work in building political support” seems especially implausible to me because of the hierarchical model of the relations of a political insider and the grassroots movement that it implies. As John D’Emilio, one of the foremost historians of the gay and lesbian rights movement in the United States, observed, “a congeries of organizations and individuals, social movements lack boundaries, lines of authority, policies, and procedures.”²⁰ Rather than being “used,” wouldn't activists act on their

¹⁵ Haider-Markel, “Lesbian and gay politics,” 303.

¹⁶ Turner, “The Gay Rights State.”

¹⁷ Ibid. 94.

¹⁸ Ibid. 113-116.

¹⁹ Ibid. 100.

²⁰ D’Emilio, John. “Cycles of Change, Questions of Strategy: The Gay and Lesbian Movement After Fifty Years.” In *The Politics of Gay Rights*. Edited by Craig A. Rimmerman, Kenneth D. Wald and Clyde Wilcox, 31–53. Chicago and London: The University of Chicago Press, 2000. 46.

own behalf and push their interests in the ways that seem most promising to them – cooperating with legislators when it served their cause, but also resorting to other tactics? Such outside activism escapes scholars who fail to include the local gay rights movement in their analyses.

In this thesis, I endeavor to reconstruct how Wisconsin became the first state to pass a gay rights law by situating the law's legislative history within two contexts: the emergence of a lesbian and gay rights movement in the United States and the entry of its demands into legislative politics, and Wisconsin's political history. As I will elaborate in chapter two, the two most important legal demands of the early gay and lesbian movement were the repeal of sodomy laws that prohibited homosexual practices and the passage of laws to protect lesbians and gay men from discrimination in employment, housing, and public accommodations such as bars, restaurants, and hotels. Thus, my analysis takes the first year that one of these demands was introduced in the Wisconsin legislature, 1967, as its starting point, and ends in 1983, when both concerns had been passed into law. Since the word “sodomy” was not used in Wisconsin law – the practice it designated, anal intercourse, was prohibited as “sexual perversion” instead – legislators and activists in the state did not speak of sodomy repeal so much, but of the need for a “sexual privacy” or “consenting adults” law that would legalize all private consenting sex between adults. The bill to outlaw discrimination against gays and lesbians was most often referred to as “gay rights bill.” These are the terms that I will use in this thesis. Taking the legislative progress of the two bills as the backbone of my account, I seek to tackle the following questions: How did gay rights become a political concern in Wisconsin? Who were the individuals and organizations pushing gay rights? What were the relations between the lesbian and gay community and the legislators that sponsored the gay-related bills like? Who supported and who opposed the bills, inside and outside the legislature? The legislative history will remain the focus of my thesis, but I will try to situate it within Wisconsin's broader political history during the sixteen years that my analysis covers.

1.2 Literature and sources

Wisconsin's eventful and dense recent history has, unfortunately, not yet produced an adequate body of historical publications. The last volume of the standard *History of Wisconsin* ends its account of the state's political history in 1964, though it reaches out into the later

sixties and seventies in telling about the open housing marches in Milwaukee.²¹ The one-volume *Wisconsin. A History* takes 1980 as its end, but devotes just over thirty pages to the social and political realignments that happened after the Second World War – not enough to offer a substantial account of the social and cultural changes of the seventies.²² There are a few publications about Madison and the anti-war movement in the 1960s, Milwaukee's civil rights struggle, and two insider accounts of the state's politics in the 1970s and 1980s.²³ There is no published history of the lesbian, gay, bisexual and transgender (LGBT) community in the state.²⁴

My reconstruction of the legislative process of the passage of the gay rights bill is based to a large extent on the resources of the Legislative Reference Bureau (LRB) in Madison. The LRB is “a nonpartisan legislative service agency responsible for providing research, library, and bill drafting services to the legislature.”²⁵ Its library offers not only the journals of the two legislative bodies, the assembly and the senate, but also the bill drafting records of all bills introduced and passed in Wisconsin since 1927. My research profited from the fact that the

²¹ Thompson, William F. *The History of Wisconsin*. The History of Wisconsin VI, Continuity and Change, 1940-1965. Madison: State Historical Society of Wisconsin, 1988.

²² Nesbit, Robert C. *Wisconsin. A history*. Revised and updated by William F. Thompson. 2nd ed. Madison, Wis: University of Wisconsin Press, 1989.

²³ The literature about Madison and the antiwar movement includes Bates, Tom. *Rads: The 1970 bombing of the Army Math Research Center at the University of Wisconsin and its aftermath*. 1st ed. New York: HarperCollins Publishers, 1992, and Maraniss, David. *They marched into sunlight: War and peace, Vietnam and America, October 1967*. New York: Simon & Schuster, 2003. Paul Buhle's *History and the New Left. Madison, Wisconsin 1950-1970* is a collection of memories of scholars and activists of the old and new left and the intellectual and activist culture they found and created in Madison. Buhle, Paul, ed. *History and the new left. Madison, Wisconsin, 1950-1970*. Critical perspectives on the past. Philadelphia: Temple University Press, 1990. As for the recent history of minorities and the struggle for civil rights in Wisconsin, Patrick D. Jones' *The Selma of the North. Civil Rights Insurgency in Milwaukee* tells the story of the long way to desegregation in housing and schools in Milwaukee. Jones, Patrick D. *The Selma of the North: Civil Rights Insurgency in Milwaukee*. Cambridge, Massachusetts; London, England: Harvard University Press, 2009. The history of the Democratic Party is documented until the millennium, that of the Republican Party only until 1975, before the Christian Right became a strong influence. Both were commissioned by their respective parties and do not offer a critical analysis or any mention of inner-party struggles. Haney, Richard C., Erica Feldkamp, and Paul Tewes. *The History of the Democratic Party of Wisconsin, 1949-1999*. Wisconsin: Democratic Party of Wisconsin, 1999; Haney, Richard C. *A concise history of the modern Republican Party of Wisconsin, 1925-1975*. Madison: Republican Party of Wisconsin, 1976. William Kraus' *Let the people decide* is his account of Lee Sherman Dreyfus' unconventional campaign for governor in 1978. Former representative and assembly speaker Tom Loftus' account of his legislative career, *The Art of Legislative Politics*, gives good insight into the state's legislature in the late 1970s and the 1980s, as well as into the legislative technicalities and the wheeling and dealing that most bills are subject to. Kraus, William M. *Let the people decide*. Aurora Ill.: Caroline House Publishers, 1982; Loftus, Tom. *The art of legislative politics*. Washington, D.C: Congressional Quarterly Press, 1994.

²⁴ As the movement for gay and lesbian rights has evolved, bisexual and transgender people have claimed their place in it and have articulated their concerns and political demands. Today, the movement for the equality of people regardless of their sexual orientation or identity is thus referred to as “LGBT movement.” During my period of examination, however, the movement's agenda was for the most part limited to gay men and lesbians. I will therefore refer to the “gay and lesbian” movement in this thesis.

²⁵ Roe, Richard, Robert Nelson, Pamela Kahler, and Robin Kite. “The Legislative Process in Wisconsin.” In *Wisconsin Blue Book 1993-94*, 99–193, 119.

records of at least some bills that were not passed into law were also kept by the LRB. The drafting records include information on the bill's author and her or his drafting instructions as well as the text of the bill and possible amendments. They may also contain information on earlier versions of the bill and background material such as model laws from other states or correspondence between the legislator author and an interest group pushing for the legislation.²⁶

While there is no published history of Wisconsin's LGBT community, there have been efforts in recent years to record the stories of LGBT individuals from Madison and Milwaukee in oral history interviews, and to make sources related to the topic available on the internet. The head of the archives of the University of Wisconsin-Milwaukee (UW-Milwaukee), Michael Doylen, has reached out to the city's LGBT community and has brought together a significant collection including the records of the *Gay Peoples Union* (GPU), Milwaukee's most important gay and lesbian rights organization during the 1970s, and the personal papers of some Milwaukee activists.²⁷ The GPU's monthly magazine, the nationally read *GPU News*, is online in its entirety, from issue number one (October 1971) to the last issue, published in January 1981. The archives have also digitized GPU's radio show *Gay Perspective*, broadcast in 1971 and 1972.²⁸ In addition, the Wisconsin GLBT History Project seeks to chronicle the history of Milwaukee's GLBT community. The community project, started in the 1990s, collects photos and other material from members of the gay community and operates a website with information, and some source materials, on individuals, organizations, businesses, media and events.²⁹ I have used all these sources to reconstruct the development of Milwaukee's gay and lesbian community, most thoroughly the *GPU News*.

In Madison, the Wisconsin Historical Society (WHS) Archives hold the papers of former representative David Clarenbach.³⁰ They encompass his whole legislative career and were a key source for this thesis. In addition, David Clarenbach kindly granted me access to his personal collection of newspaper clippings documenting his legislative career. The WHS Archives also keep the files of Madison's gay rights organization *The United*, from its founding in 1978 to 1981, as well as the papers of lesbian activists Kathleen Nichols and

²⁶ Keane, Michael J. "Researching Legislative History in Wisconsin." Wisconsin Briefs from the Legislative Reference Bureau. <http://www.legis.state.wi.us/lrb/pubs/wb/06wb10.pdf> (accessed October 22, 2010).

²⁷ University of Wisconsin-Milwaukee Archives. "Overview of Collections." <http://www4.uwm.edu/libraries/arch/about/overview.cfm> (accessed October 11, 2010).

²⁸ University of Wisconsin Digital Collections. "The *Gay Peoples Union* Collection." <http://digioll.library.wisc.edu/GPU/> (accessed October 11, 2010).

²⁹ "Wisconsin GLBT History Project." <http://www.mkelgbthist.org/> (accessed October 11, 2010).

³⁰ Clarenbach, David E. David E. Clarenbach Papers, 1974-1992, Mss 1029, Wisconsin Historical Society Archives.

Barbara Constans.³¹ My reconstruction of the development of Madison's gay and lesbian community during the late 1970s builds on the newspaper clippings, leaflets and other documents found in these collections.

Apart from these archival sources, my thesis is to a large extent built on oral history interviews. During my research stay in Wisconsin during June and July 2010, I conducted interviews with four people: former legislator David Clarenbach, his legislative assistant Dan Curd, lesbian activist and co-founder of *The United* Barbara Lightner, and Dick Wagner, former Madison politician and historian of the state's gay history. I conducted three interviews with Clarenbach and one interview with each of the others.³² The interviews were recorded in digital format and will be part of the University of Wisconsin-Madison Archives Oral History Program. The archives are building a collection of oral histories documenting Madison's LGBT community since the 1960s.³³ Apart from my own interviews, I have made use of a few of these interviews, too. References to these interviews are clearly cited, as are references to the interviews I conducted. Furthermore, the website of the University of Wisconsin-Madison's (UW-Madison) LGBT Campus Center offers a chronology of the city's lesbian and gay community from 1969 to 1979 which is based on the oral histories collected for the archives program.³⁴

Whereas the interviews conducted for the UW-Madison oral history project on Madison's LGBT community seek to record the experiences of many individuals over an extended period of time in order to put them together and create a community history, the interviews I conducted were subject-oriented oral histories.³⁵ I met with my interview partners in order to find out about certain things, namely, the legislative process leading to the passage of the gay rights law, people involved in the passage within and without the legislature, the political culture in Wisconsin at the time, the state of the lesbian and gay movement, and the relationship of political insiders – chiefly David Clarenbach – with the outside, the lesbian

³¹ *The United* (Madison, Wisconsin). Records, 1977-1981, Mss 569, Wisconsin Historical Society Archives.; Nichols, Kathleen. Kathleen Nichols and Barbara Constans papers, 1975-1979, Mss 72, MAD 4/40/G2, Wisconsin Historical Society Archives.

³² Author's interviews with David Clarenbach, at his Madison home, July 9, 11, 27, 2010; with Dan Curd at his office at Madison AIDS Network, July 23, 2010; with Barbara Lightner at the University of Wisconsin-Milwaukee Archives, July 14, 2010; with Dick Wagner at his Madison home, July 26, 2010, see CD in appendix.

³³ University of Wisconsin-Madison Archives & Records Management. "Madison's LGBT Community, 1960s-present." <http://archives.library.wisc.edu/oral-history/by-subject/lgbt/index.html> (accessed October 12, 2010).

³⁴ Madison LGBT OH Project community. "Gay Liberation in Madison, Wisconsin: The First Decade: 1969 - 1979." <http://lgbt.wisc.edu/ohp/timeline1969.php> (accessed November 3, 2010).

³⁵ Oral historian Mary A. Larson distinguishes four types of oral history projects: subject-oriented histories, life histories, community history, and family history. Larson, Mary A. "Research Design and Strategies." In *Handbook of oral history*. Edited by Thomas L. Charlton, Lois E. Myers and Rebecca Sharpless. 1. paperback ed., 105–34. Lanham, Md.: Altamira Press, 2008, 106.

and gay community. These areas of interest determined who I interviewed, and what questions I asked. My interviews are thus qualitative, not quantitative, in nature, which means that they are not representative of the lesbian and gay community.

Having that established, I would like to point out some of the strengths and weaknesses of my interviews. They are strong in the insider perspectives that they offer on the legislative process. Only one of my interviewees, Barbara Lightner, was not directly involved with legislative or local politics at the time and can be counted as an outsider. The movement perspective will thus remain less complete, even though this problem was mitigated by the availability of local gay and lesbian publications. The reasons for this imbalance are twofold. Before I started my research in Wisconsin, my knowledge of the law's passage came from the two published essays mentioned above and David Clarenbach's files at the WHS archives, which I had studied cursorily for a digital history project during an internship at the WHS in 2009. These sources suggested Clarenbach as interview partner. When I prepared my research stay in Wisconsin in 2010, I asked University of Wisconsin-Madison graduate student Scott Seyforth for suggestions, and he came up with Clarenbach, Lightner, and Milwaukee activist Leon Rouse.³⁶ Once in Wisconsin, I asked my interview partners for further suggestions, and I tried to contact Rouse, but was not successful.³⁷ What is more, time was too short to establish rapport with other outside activists suggested by Barbara Lightner and David Clarenbach.

My inability to contact Leon Rouse is connected with the second imbalance of my interviews, the local focus. All my interview partners were living in Madison during the events that I asked them about. None of them had close connections to the Milwaukee gay and lesbian community, a circumstance probably owed to the long-standing rivalry between the two cities.³⁸ Again, time was too short to establish rapport with Milwaukee activists who still live in the city, and to get in touch with Leon Rouse via them. Thus, my relatively dense material on Madison was not matched by my sources on Milwaukee.

The third imbalance of my interviews is one of gender. I asked three gay men to give me their view on things, but only one lesbian. This tilt has to do with my focus on an inside perspective. At the time, women were far less represented in political office than men. The same is not true for the gay and lesbian movement; lesbians made up an important part of gay rights organizations and may even have been more activist than gay men – possibly because

³⁶ Seyforth, Scott. E-Mail to Andrea Rottmann, December 18, 2009.

³⁷ I regret not having been able to speak with Milwaukee activist Leon Rouse about his work for religious support for the gay rights law. Since I lacked contacts to Milwaukee activists still in touch with Rouse, who no longer lives in Wisconsin, I was not able to establish rapport with him.

³⁸ Curd, Wagner interviews.

they were more excluded from political office. The gender contortion is somewhat remedied by the inclusion of testimony from an existing oral history interview with lesbian activist Kathleen Nichols.³⁹

These imbalances must be kept in mind; they determine the story this thesis tells. They affect mostly the reconstruction of the history of the lesbian and gay communities in Madison and Milwaukee. That history will remain fragmentary in this thesis; it is far too diverse to be discussed in its complexity. Despite these shortcomings, I believe that the information gained through the oral history interviews adds significantly to the story of Wisconsin's gay rights law by offering details of the legislative process as well as by showing that outside activism was vital to the law's passage. The following chapter seeks to outline the national and local developments that bracket the process of passing gay rights in Wisconsin: the emergence of a lesbian and gay movement in the United States after the Second World War and its efforts for political and legal change, the community-building of lesbians and gay men in Wisconsin, and the peculiar development of Wisconsin politics since the 1960s. Once these two, equally important, backgrounds have been established, I will try to reconstruct the process of passing gay rights in Wisconsin in chapter three.

³⁹ Nichols, Kathleen. Interview by Jason Orne, March 26, 2009; University of Wisconsin-Madison Archives Oral History Program.

2. Two backgrounds: Lesbian and gay politics and Wisconsin politics of the 1970s

Wisconsin's pioneering gay rights law can be understood only as a result of two contexts, one national and one local. The need and the arguments for gay rights legislation were articulated for the first time when lesbian and gay people understood their sexuality as a substantial part of their identity and organized politically in order to be able to live their lives without repression. The movement for gay rights in the United States began in the 1950s, but its goals did not become legitimate political concerns before the 1970s. As it grew in size and power during that decade, activists discussed how their goals could be achieved best, turning both to incremental legal change – getting access to the political system and working within it – and to a more aggressive grassroots strategy of taking to the streets and building pressure from without the system. These processes and strategic questions would structure the effort for gay rights in Wisconsin, too. The emergence of a gay rights movement thus provides the national background to the Wisconsin story.

Wisconsin's political history during the 1970s is the other frame to the events. A tradition of Progressive politics, party politics largely independent from the national trends, and idiosyncratic personalities in the Democratic and Republican parties as well as in the churches set the state apart from national trends in the 1970s and early 1980s. Therefore, the second part of this chapter is devoted to Wisconsin's political peculiarities. Since my analysis of the gay rights law will trace its legislative history in some detail, a brief description of the legislative process in Wisconsin is also part of this chapter.

2.1 Situating Wisconsin's gay rights law in the history of gay men and lesbians in the United States

The story of Wisconsin's gay rights law is part of the narrative of the formation of a gay and lesbian community in the United States, of its self-understanding as a minority that was discriminated against and that was entitled to civil rights to protect it from discrimination, and of its political organization to achieve these rights. In his seminal work on “the making of a homosexual minority in the United States 1940-1970,” *Sexual Politics, Sexual Communities*, historian John D'Emilio has reconstructed this process. As he writes in his introduction, the movement for lesbian and gay rights

cannot be understood merely as a chronicle of how activists worked to mobilize masses of gay men and lesbians and to achieve a fixed agenda. Instead, the movement constitutes a phase, albeit a decisive one, of a much longer historical process through which a group of men and women came into existence as a

self-conscious, cohesive minority. Before a movement could take shape, that process had to be far enough along so that at least some gay women and men could perceive themselves as members of an oppressed minority, sharing an identity that subjected them to systematic injustice.⁴⁰

Following D'Emilio, I want to briefly outline this process in this chapter before highlighting issues and developments in the national gay and lesbian movement during the 1970s. As legislators and activists were working toward gay rights legislation in Wisconsin, their strategies and rhetoric were heavily influenced by what was happening in other places around the country.

2.1.1 *Interpreting same-sex desire in America: religion, the law, and medicalization*

Records of romance and sex between women and between men in North America reach back into the 16th century.⁴¹ The common understanding until the late nineteenth century was that such behavior represented instances of sinful and criminal deviance from the norm of procreation-oriented marital sexuality. The story of the destruction of Sodom and Gomorrah, told in the book of Leviticus, warned that men who lay with men were guilty of an “abomination” and should “surely be put to death; their blood shall be upon them.” In the Epistle to the Romans, Paul called homosexual behavior between men and between women “vile passions ... against nature.”⁴² The lasting power of biblical notions of sexuality on American society was noted by Alfred Kinsey, who found in his groundbreaking study *Sexual Behavior in the Human Male*, published in 1948, that “[a]ncient religious codes are still the prime source of the attitudes, the ideas, the ideals, and the rationalizations by which most individuals pattern their sexual lives.”⁴³

The law in the American colonies, and later in the United States, imposed drastic punishments for homosexual acts. Sodomy, as anal intercourse between two men or a man and a woman was called after the sinful biblical city, was to be punished by death. This most severe of punishments was turned into lesser penalties in most U.S. states in the half century after American independence. It remained a felony in all but two states until the mid-twentieth

⁴⁰ D'Emilio, John. *Sexual politics, sexual communities: The making of a homosexual minority in the United States, 1940-1970*. Chicago and London: University of Chicago Press, 1983, 4. Though published more than twenty-five years ago, “D'Emilio's framework has held up remarkably well” according to LGBT historian Marc Stein. Stein, Marc. “Theoretical Politics, Local Communities. The Making of U.S. LGBT Historiography.” *GLQ* 11, no. 4 (2005): 605–625, 608.

⁴¹ Jonathan Ned Katz' *Gay American History*, a collection of sources spanning more than four centuries, provides plenty of examples of sources documenting homosexual acts and relations in the English colonies in North America and among Native Americans. Katz, Jonathan N. *Gay American history: Lesbians and gay men in the USA. A documentary history*. New York: Meridian, 1992.

⁴² Cited in D'Emilio, *Sexual Politics*, 13.

⁴³ *Ibid.*

century, though, in the same category as murder, kidnapping, and rape. Furthermore, the definition of sodomy was broadened in the late nineteenth and early twentieth centuries to cover not only anal but also oral sex.⁴⁴ Homosexual acts could also be prosecuted under statutes prohibiting lewd behavior, the “crime against nature,” or, as in Wisconsin, “sexual perversion.”⁴⁵ As homosexual subcultures evolved in American cities in the late nineteenth and early twentieth centuries, the police arrested men and women with same-sex desires on charges of disorderly conduct, vagrancy, public lewdness, cross-dressing, assault, loitering, solicitation and other crimes.⁴⁶ Frequently, the police used entrapment to make arrests, confident that their victims would plead guilty to avoid the stigma of being publicly suspected of homosexual tendencies.⁴⁷

During the twentieth century, homosexual practices were medicalized – homosexual desire was now defined as sick.⁴⁸ Since the late nineteenth century, the medical profession studied homosexuality intensively, coming to the conclusion that it was as a hereditary disease. Psychiatrists, who took the lead in studying homosexuality after World War I, debated whether it was a disease in itself or a symptom of another psychological sickness, but agreed that it was “a mental health problem requiring psychiatric treatment.”⁴⁹ Their model of homosexuality entered public discussions only during World War II, as inductees to the armed forces were ordered to undergo psychiatric screenings by the federal government. After the war, psychiatry's new authority on sexuality manifested itself in the passage of state laws against sexual psychopaths, a category that included homosexuals. These laws provided another possibility of state control over homosexuals, and the view of homosexuality as sickness sent many gay men and lesbians to asylums where doctors tried to cure them through psychotherapy, but also castration, hysterectomy, lobotomy or electroshock. Still, the psychiatric definition of homosexuality as sickness was different from the earlier understandings formed by religion and law in that it did not condemn the person committing homosexual acts. If homosexuality was a disease, the patient could not be blamed for it. As a condition that was not a matter of choice, it was more than just sexual acts – it became a defining part of one's identity. In this way, psychiatrists, at the same time as pathologizing

⁴⁴ D'Emilio, *Sexual Politics*, 14-15; Rosenblum, Darren. “Sodomy, buggery, crimes against nature, disorderly conduct, and lewd and lascivious law and policy.” In *Encyclopedia of Lesbian, Gay, Bisexual and Transgender History in America*. vol. 3. Edited by Marc Stein, 138–41. New York: Charles Scribner's Sons, 2004.

⁴⁵ D'Emilio, *Sexual Politics*, 14; Wisconsin Statutes 1967-68, Chapter 944: Crimes Against Sexual Morality.

⁴⁶ D'Emilio, *Sexual Politics*, 14-15, Rosenblum, “Sodomy,” 139.

⁴⁷ D'Emilio, *Sexual Politics*, 14-15.

⁴⁸ “Medicalization describes a process by which non-medical problems become defined and treated as medical problems, usually in terms of illnesses or disorders.” Gabe, Jonathan, Michael Bury, and Mary A. Elston. *Key concepts in medical sociology*. SAGE key concepts. London, Thousand Oaks CA: Sage Publications, 2004, 59.

⁴⁹ D'Emilio, *Sexual Politics*, 16.

them, gave gay men and lesbians a model to understand their desires as inherent in their nature and thus helped bring about the articulation of a gay identity.⁵⁰

2.1.2 *World War II and the postwar years: A homosexual minority forms in the U.S.*

The Second World War proved to be the crucial catalyst for the formation of gay and lesbian communities in the United States. Mobilization uprooted millions of Americans, pulled them out of their hometowns and the patterns of family and marriage and placed them in sex-segregated environments in the armed forces and in the centers of industrial war production in the big cities. For those who already defined themselves as lesbian or gay, it presented an opportunity of previously unknown scale to meet others like themselves. For those who were aware of their feelings of same-sex attraction, but had never acted on them, it was chance to experiment away from home and the watchful eyes of family and neighbors. In this way, World War II “created something of a nationwide coming out experience,” according to John D’Emilio - “coming out” in the sense of “recognizing one’s homosexual desires, subsequently attempting to act upon them, and acknowledging one’s sexual preferences to others of the same persuasion,” but not in the broadened sense of announcing one’s homosexuality to family and friends. This second meaning of coming out would become a key element of the gay liberation movement of the 1970s.⁵¹

In the years following the Second World War, this “national coming out experience” materialized in the birth of a diverse urban gay subculture with the gay bar “foster[ing] an identity that was both public and collective.”⁵² Alfred Kinsey’s reports on male and female sexuality, published in 1948 and 1953, showed that homosexual desire was widespread among Americans. Kinsey’s findings shocked America. To lesbians and gay men, they proved that they were not alone, but that millions of others felt like them.⁵³ In his 1951 book *The Homosexual in America*, author Daniel Webster Cory (a pseudonym) first articulated the understanding that many gay men and women would adopt for themselves in later years in

⁵⁰ D’Emilio, *Sexual Politics*, 18-21.

⁵¹ Ibid. 24, 20, 235.

⁵² Ibid. 32.

⁵³ Kinsey’s studies, which were read by a huge audience, found that fifty percent of men and twenty-eight percent of women admitted attraction to their own sex, and thirty-seven percent of men and thirteen percent of women had had at least one postadolescent homosexual experience leading to orgasm. Four percent of men were exclusively gay, and about twelve percent lived a homosexual life for at least a three-year period. The corresponding figures for women were lower, but still substantial. Ibid. 33-37.

their political work, that of a despised and discriminated minority on the margins of American society.⁵⁴

Cory's analysis, Kinsey's findings and the emergence of an urban gay subculture alleviated the isolation of many lesbians and gays. However, whatever positive developments were happening, lesbians and gays soon found themselves the victims of a massive campaign against homosexuals in government office. In the wake of the anti-Communist witch hunt led by Wisconsin senator Joe McCarthy, homosexuals were chased out of government offices as security risks. In 1953, President Eisenhower issued new rules for the Civil Service Commission, the government agency in charge of federal servants, listing "sexual perversion" as sufficient and necessary grounds for dismissal. As a result, thousands of gay men and lesbians lost their jobs in the 1950s, 1960s and 1970s.⁵⁵

2.1.3 *The invention of gay rights*

Faced with such pervasive discrimination, two gay emancipation organizations were founded in California in the 1950s, the *Mattachine Society*, whose members were mostly men, and the lesbian *Daughters of Bilitis* (DOB). Seeking acceptance and inclusion into mainstream America, they tried to educate and inform the public on homosexuality, holding public forums and establishing contacts with sympathetic professionals in law, medicine, and religion who they hoped would argue their cause.⁵⁶ The leaders of these organizations stuck with the view of homosexuality as an individual problem that could only be solved on an individual basis and refrained from understanding gays and lesbians as a minority group. They shrank back from articulating concerns, forbid demands, as a group, fearing to reinforce prejudices.⁵⁷ Also founded in the 1950s, ONE magazine took a less conform, more self-confident stance, claiming that no one but gays and lesbians themselves were authorities on homosexuality, attacking the medical model and criticizing police harassment.⁵⁸ The moderate strategy of change through education championed by *Mattachine* and DOB

⁵⁴ Cory wrote, "Our minority status is similar, in a variety of respects, to that of national, religious, and other ethnic groups: in the denial of civil liberties; in the legal, extra-legal and quasi-legal discrimination; in the assignment of an inferior social position; in the exclusion from the mainstream of life and culture." Cited in D'Emilio, *Sexual Politics*, 33.

⁵⁵ The FBI, whose responsibility it was to supply the Civil Service Commission with background information on applicants and employees, established contacts with the police, who handed in arrest records on morals charges, while the Post Office took note of who received physique magazines and other forms of gay male erotica. Private companies that worked as contractors for the government adopted the rules, as did many states and municipalities. Ibid. 44-47.

⁵⁶ D'Emilio, "Cycles of Change," 33.

⁵⁷ D'Emilio, *Sexual Politics*, 82-83, 123.

⁵⁸ Ibid. 88.

prevailed, though, and characterized the homophile movement of the 1950s. However, during the 1960s, in the wake of the civil rights movement, parts of the homophile movement became more militant. Franklin Kameny, a gay astronomer fired from his job with the army map service because of his homosexuality, urged the newly founded Mattachine Washington, D.C. chapter to aggressively pursue civil rights. Kameny held that the homophile movement was “a movement, in many respects, of down-to-earth, grass-roots, sometimes tooth-and-nail politics.” In a 1964 speech to the New York Mattachine Society, he challenged homophile leaders that bowed to professionals and articulated a bold new rhetoric.

We cannot ask for our rights from a position of inferiority, or from a position, shall I say, as less than WHOLE human beings. [...] I take the stand that not only is homosexuality ... not immoral, but that homosexual acts engaged in by consenting adults are moral, in a positive and real sense, and are right, good, and desirable, both for the individual participants and for the society in which they live.⁵⁹

Washington Mattachine's self-confident stand and its focus on civil rights and direct action was echoed by activists in New York and Philadelphia. Though regarded warily by the old homophile guard, they succeeded in staging the first demonstrations for homosexual civil rights, which received notable press coverage. Their “gay is good” approach gave them the confidence to present their demands to hostile government officials.⁶⁰ They challenged the federal government's discriminatory practices, and by the end of the decade, they had won two key cases in federal court that began overturning the ban. They had also won the support of the American Civil Liberties Union (ACLU) for the repeal of sodomy laws and for fair employment practices. Other signs of slow progress were the spread of fragile homophile groups across the country, Supreme Court decisions that further narrowed the applicability of obscenity laws to gay publications, and rising doubts among doctors whether homosexuality really was a disease.⁶¹ But the homophile organizations still had only about five thousand members, and when they picketed, they were still striving to make an impression of respectability. At a time when students occupied their universities, civil rights activists turned to black power, and the Black Panthers called for armed struggle, their clinging to legal reform seemed oddly anachronistic.⁶²

⁵⁹ Cited in D'Emilio, *Sexual Politics* 153.

⁶⁰ Ibid. 161-165.

⁶¹ D'Emilio, “Cycles,” 34.

⁶² D'Emilio, *Sexual Politics*, 219-224.

2.1.4 *Stonewall and what followed: gay and lesbian politics in the 1970s*

The turning point that catapulted gay and lesbian activism into a new, more confrontational direction and made it a visible actor in local, state and national politics were the Stonewall riots of 1969.⁶³ In June of that year, gay, lesbian and transgender patrons of the Stonewall Inn in New York City resisted a police raid, and coverage of the event and the ensuing riots mobilized thousands of gays and lesbians across the nation to join the budding gay liberation movement. From about fifty homophile groups on the eve of Stonewall, the movement grew to over eight hundred gay and lesbian groups in 1973.⁶⁴ The discussions and arguments over movement strategies that followed the event, and the organizations that were born out of them, came up in places across the country, also in Wisconsin. Many of the debates fought on the coasts structured the developments in the Midwest, too. Therefore, I want to give a concise overview of some of the main issues and organizations developed in the gay liberation movement in the 1970s.

Stonewall signified a turn away from the moderate approach of the homophiles and their wish for inclusion into mainstream America through the law. Many young gays and lesbians who had been active in the New Left movements and the counterculture of the late 1960s aimed for a much more radical change. They wanted to change a whole culture that they felt was corrupted not only by homophobia, but also by racism, sexism, and the war in Vietnam. New York City's *Gay Liberation Front* (GLF), founded within a month of the Stonewall riots, came to embody this encompassing approach to change. However, with their wish to fight everything that was wrong with American culture came a neglect of the cause that drew them together, their homosexuality and the mistreatment they suffered because of it. Frustrated with chaotic meetings that resulted in statements of solidarity with the Black Panthers, but failed to bring any substantial progress to gay activism, some GLF members left the organization to form the *Gay Activists Alliance* (GAA).⁶⁵ The GAA, dedicated “solely and completely” to the struggle for gay rights, targeted local politicians and asked them directly to support concrete political goals, like a bill to prohibit discrimination against gays in employment. In their efforts to get liberal politicians to support gay rights, they engaged in *zaps*, dramatic direct confrontations with politicians at official functions and in other situations where the press was often present. These confrontations often yielded statements

⁶³ In 1967 and 1968, some homophile activists had already exchanged their soft-spokenness with angry, loud demands mirroring those of others in the New Left movements, but a broad change occurred only with Stonewall. D'Emilio, *Sexual Politics*, 227.

⁶⁴ D'Emilio, “Cycles,” 35.

⁶⁵ Clendinen/Nagourney, *Out for good*, 47, 50.

from the pressured politicians, sometimes they even brought concrete commitments; at the very least, they made gay activism visible. Critics of the zaps from both outside and inside the gay community charged that they eroded what support existed from liberal politicians.⁶⁶ Indeed, when a gay rights bill was discussed in New York City, the GAA's drastic activism at the public hearings, with activists “screaming 'fascists' at council members from the front row [and] men in dresses running in and out of the women's rest room at city hall,” had very likely contributed to the bill's death. Still, the GAA's relentless pressuring succeeded in mayor – and presidential candidate – John Lindsay issuing an executive order that prohibited discrimination on the basis of sexual orientation in city jobs, and his emphatic statement of support for gay rights on top of it.⁶⁷

2.1.4.1 Lesbians between gay liberation and women's liberation

As gay liberation groups were founded across the country – some more, some less radical – conflict arose not only between the old homophile activists and the new liberationists, between proponents of liberal and advocates of confrontational politics. A rift also emerged between gay men and lesbians. Lesbians were appalled by the sexism they encountered from their gay “brothers,” they found that many of the concerns that gay men put high on the agenda weren't theirs at all, and they felt alienated by a sexual culture that was very different from their own.⁶⁸ To many, it seemed that gay men had no understanding or empathy for the double discrimination they suffered as women and lesbians. “‘Gay is good,’ but not good enough – so long as it is limited to white males only,” wrote angry lesbian activist Del Martin in *The Advocate*, the most widely read gay magazine.⁶⁹ Many lesbians felt that their grievances would be better understood by the feminist movement, but there, they also had to fight for inclusion.⁷⁰ Faced with hostility from both the feminist and the gay liberation movements, separatism seemed to offer a solution to many lesbians, and a lesbian feminist subculture flourished throughout the 1970s.

⁶⁶ Clendinen/Nagourney, *Out for Good*, 79-80.

⁶⁷ *Ibid.* 139.

⁶⁸ *Ibid.* 85-105.

⁶⁹ Quoted *ibid.* 95.

⁷⁰ Betty Friedan, the founder of the National Organization of Women (NOW), believed that lesbians were “the lavender menace,” jeopardizing the movement by lending truth to the stereotypes that all feminists were lesbians. Only in 1971, NOW passed a resolution that acknowledged “the oppression of lesbians as a legitimate concern of feminism.” *Ibid.* 90, 98-100, 102.

2.1.4.2 A place at the table: Lesbian and gay politics enter mainstream politics

As the early seventies passed, gay and lesbian politics made its first advancements in the political system. Out lesbians and gays ran for public office, such as veteran gay activist Frank Kameny in Washington, D.C., and Elaine Noble in Massachusetts.⁷¹ Closeted gays inside the political process tried to wield their clout to further the gay and lesbian cause.⁷² Moderate gays and lesbians built coalitions with straight liberal politicians, who they supplied with gay votes in exchange for support for gay issues.⁷³ Gay politics weren't limited to the coasts. In some ways, a Midwestern state, Minnesota, seemed to lead the way. There, the Democratic-Farmer-Labor Party included the abolition of sodomy laws between consenting adults and the legalization of same-sex marriage in its 1972 state elections platform, and it nevertheless captured both houses of the legislature.⁷⁴ The consenting adults bill introduced in the state in spring 1973 even had four Republican sponsors. The following spring, the city of Minneapolis passed an ordinance prohibiting discrimination on the basis of "affectional or sexual preference." And in December of 1974, state senator Allen Spear publicly acknowledged his homosexuality.⁷⁵

The division between those wanting to work inside the political system and those in favor of grassroots, confrontational politics became ever more apparent when some members of the GAA, disgruntled with the organization's loud activism, split off to found the National Gay Task Force (NGTF) in 1973, an organization with a corporation-like structure that they envisioned representing the "normal" gays and lesbians around the country and that they stressed was going to be "professional."⁷⁶ The radical grassroots groups that were characterized by a democratic structure and by their direct action tactics were losing ground as New Left activism dropped following the end of the Vietnam war. Another sign of this development was the 1976 founding of another national gay rights organization, the *Gay Rights National Lobby* (GRNL), with the purpose of lobbying Congress.⁷⁷ The return to more moderate mainstream politics was accompanied by a shift of many gay men and lesbians away from politics. In some big cities, large gay and lesbian communities had developed, if

⁷¹ Clendinen/Nagourney, *Out for Good*, 109-124, 218-224.

⁷² *Ibid.* 132-147.

⁷³ This was the case in San Francisco, where the gay vote helped elect Dianne Feinstein to the city's Board of Supervisors and Richard Hongisto for sheriff. *Ibid.* 148-163.

⁷⁴ *Ibid.* 227.

⁷⁵ *Ibid.* 228-235.

⁷⁶ *Ibid.* 191-195.

⁷⁷ The *Lobby* was a brainchild of the rich conservative publisher of *The Advocate*, David Goodstein, who wanted the organization to exclude any radicals, or "obstructionists," as he called them, in order to attract the money and clout of closeted gays. When the organization didn't materialize quite as elitist as he envisioned it, he withdrew his financial support. *Ibid.* 254-60.

mostly with separate institutions. In New York and San Francisco, but also, in smaller scale, in Seattle, Miami, and Milwaukee, the gay bars were humming, and there were sex clubs and baths catering to gay men. Political progress seemed unstoppable in these urban meccas, with fifteen cities having passed some form of gay rights legislation, and eight states having repealed their sodomy laws by the end of 1974, only five years after Stonewall.⁷⁸ Consequently, many gay men left activism and enjoyed these new urban cultures of sex and partying instead.⁷⁹ With the friendliness of many liberal politicians and the lack of any organized opposition in most places, the achievement of the movement's political goals seemed just a matter of time. In 1973, after gay and lesbian activists had led an intensely confrontational three-year campaign to end their categorization as sick, the American Psychiatric Association (APA) removed homosexuality from its official list of mental disorders.⁸⁰ In 1975, the Civil Service Commission revoked its ban on hiring homosexuals.⁸¹ Efforts were under way, too, to pass gay rights on the state and even national levels. By late spring 1977, twenty-eight state legislatures had introduced gay-related bills, and there was a bill to end the discrimination of gays and lesbians in Congress, too. Progress seemed so swift that many activists expected 1977 to turn out as “the year of the gay,” and were placing bets on which state would be the first to pass a gay rights law, as journalist Randy Shilts writes in his biography of gay activist Harvey Milk.⁸² Instead, 1977 witnessed the birth of a strong anti-gay backlash that killed all hopes of state-wide or even nation-wide legal progress.

2.1.5 1977: Anita Bryant and the backlash against gay rights

As the county board of Dade County, Florida – the county that Miami belonged to – prepared to pass its own gay rights ordinance, a local religious coalition, made up of Catholic, various Protestant, and Jewish representatives, emerged to prevent it. It was headed by Anita Bryant, a popular singer and entertainer and also the advertisement face of Florida orange juice, and her husband and personal manager Bob Green. The couple had been approached by their Baptist minister, and they were shocked to learn that their children might be taught by an

⁷⁸ Clendinen/Nagourney, *Out for Good*, 223.

⁷⁹ *Ibid.* 243.

⁸⁰ *Ibid.* 199.

⁸¹ D'Emilio, *Sexual Politics*, 238; U.S. Civil Service Commission. Newsletter about new guidelines for evaluating the suitability of individuals for Federal employment, July 3, 1975, Lloyd Barbee Papers, Box 61, Folder 1, University of Wisconsin-Milwaukee Archives.

⁸² Shilts, Randy. *The Mayor of Castro Street: The Life and Times of Harvey Milk*. New York: St. Martin's Press, 1982, 155.

openly homosexual teacher.⁸³ When the ordinance passed in January 1977, Bryant and Green organized a broad group of religious and community leaders to mount a repeal drive. The group was called *Save Our Children*. Their campaign represented the first time that opposition to a gay rights ordinance was framed strongly in religious terms.⁸⁴ When voters were asked about repeal at the ballot in June 1977, they rejected the ordinance by almost seventy to thirty percent.⁸⁵ The defeat was crushing, especially since the campaign had got extensive national media coverage and its significance was cast as nation-wide, as “a crucial test of whether the country was willing to extend civil rights legislation to homosexuals,” as *Newsweek* put it.⁸⁶ Following Dade County, a wave of repeal drives was started around the country. Especially frightening to lesbians and gay men in Wisconsin was that voters in St. Paul, Minnesota, a state very similar to Wisconsin in its political and religious make-up, repealed the city's gay rights ordinance, despite the support of many mainstream church leaders – even the Catholic Archbishop John Roach had revised his former opposition to gay rights.⁸⁷ Wichita, Kansas, and Eugene, Oregon, also lost their gay rights ordinances.⁸⁸ The wide-spread anti-gay sentiment came as a shock to many lesbians and gays who were living in the thriving lesbian and gay communities in liberal cities and college towns, and it served as a wake-up call to many, as Randy Shilts describes in his biography of Harvey Milk.

The gay movement experienced an explosion unprecedented since the first days of gay liberation following the Stonewall riots. Gays who had come to San Francisco just to disco amid the hot pectorals of humpy men became politicized and fell into new organizations with names like Save Our Human Rights and Coalition for Human Rights. No longer was the gay movement the realm of offbeat liberation fairies - as [publisher of *The Advocate*] David Goodstein had long called militant gay activists - but a necessary response to a clear and present danger. These young gays might have taken their locker-room beatings at home, because they knew they could always go to San Francisco one day, but once in San Francisco, there was no place else to turn.⁸⁹

As we will see in chapter three, the effort to repeal Madison's gay rights ordinance resulted in a similar turn to politics among the city's gay community. Bryant's campaign was not successful everywhere – in Seattle, voters upheld the local gay rights ordinance. And California state senator John Briggs' initiative to ban homosexuals from teaching in public

⁸³ Fejes, Fred. *Gay rights and moral panic: The origins of America's debate on homosexuality*. 1st ed. New York: Palgrave Macmillan, 2008, 76-82.

⁸⁴ Ibid. 8.

⁸⁵ Ibid. 94, 144.

⁸⁶ Cited ibid. 139.

⁸⁷ Clendinen, *Out for Good*, 325-327.

⁸⁸ Button, James W. R. B. A., and Kenneth D. Wald. *Private Lives, Public Conflicts*. Washington, D.C.: CQ Press, 1997, 68-69.

⁸⁹ Shilts, *The mayor*, 160.

schools lost by an overwhelming margin.⁹⁰ But her campaign was the first signal of a profound shift in the political climate that would alter the conditions of gay politics tremendously. The fundamentalist Christians who Bryant represented were becoming a powerful voting bloc in the United States. The 1977 repeal drives across the United States heralded the emergence of the Religious Right as a vocal player in American politics, and lesbian and gay activists could henceforth count on strong evangelical opposition whenever any gay-related issue came up. The repeals showed that gay rights achievements were fragile, and that many Americans were skeptical whether gay men and lesbians should really have a right to work and live wherever they wanted to. While protesters in San Francisco were angrily shouting “Out of the bars – into the streets!” in response to the Dade County vote, some gay rights leaders concluded the opposite: that gay rights were best kept out of public debate.⁹¹ This would be the course that the sponsors of Wisconsin's gay rights bill would take just a few years later.

2.1.6 *A lesbian and gay community develops in Wisconsin*

Just a few months after Stonewall, a gay and lesbian community started to form in Wisconsin. In many ways, it mirrored the developments of the national lesbian and gay movement. The centers of the community were Madison and Milwaukee, though some gay and lesbian bars and organizations also existed in other parts of the state even in the 1970s.⁹² The first gay and lesbian organization in the state was founded in 1969, when on November 5, the *Madison Alliance for Homosexual Equality* (MAHE) met for the first time. MAHE, which changed its name into *Gay Liberation Front* later in 1970, and then into *Gay Activists Alliance* in 1972, organized public gay meetings, gay dances, protests, workshops, and the first gay phone hotline. Also in the early 1970s, Madison lesbians started meeting in a group called the *Gay Sisters*. Both groups first met in the basement of St. Francis church, a progressive Episcopal church very close to campus. Gay Sisters changed their name into *Madison Lesbians* in 1972. In 1973, a drop-in *Gay Center* opened on State Street, Madison's main street that connects the Capitol with the university. It offered counseling services, a gay library, and information files, but later relocated to St. Francis' basement. Lesbians organized both within the feminist community and within the gay community. The *Lesbian Switchboard*, founded in 1975,

⁹⁰ Clendinen, *Out for Good*, 389.

⁹¹ Ibid. 336, 311.

⁹² Gay and lesbian organizations and bars existed in the Fox Valley, in La Crosse, Menomonie and Stevens Point in the 1970s. Wagner, Dick. “Timeline of Wisconsin LGBTQ History: A Sampling.” http://www.gsafeforschools.org/history/WI_Teacher_TL_2.pfd (accessed December 8, 2009);

offered information on sexuality, peer counseling, a resource library, a speaker's bureau, and social space for lesbians out of the Gay Center until 1975, when it moved to the campus Women's Center. And the Back Door, Madison's first gay-owned and -operated gay bar, welcomed lesbians for Thursday's Women's Nights.⁹³

In 1975, the Madison City Council revised its Equal Opportunity Ordinance to protect lesbians and gays from discrimination in housing, employment, public accommodation, public facilities, and credit. One year later, the twenty-six-years-old Jim Yeadon was elected to the city council as its first openly gay member, and only the fourth openly gay person elected to public office in the nation. In response to the 1977 backlash against gay rights, three organizations were formed in the city, the *Madison Committee for Gay Rights*, the *Madison Area Gay Interim Committee* (MAGIC) and *The United*.⁹⁴

In Milwaukee, the first gay organization also came out of the university. *The Gay Liberation Organization* (GLO), founded in Spring 1970, split into two factions within the first year of its existence. More radical members founded the short-lived *Gay Liberation Front* (GLF), “a mixed-gender, gender-bending group of radicalized men and women rebelling against practically everything,” according to Michael Doyle, head of the UW-Milwaukee archives.⁹⁵ Milwaukee's GLF strove for “a re-eroticized world.” What did they mean by that?

A place where people can live and love free from all the oppressive role-playing imposed on us in the past. We want not only freedom for ourselves – an end to the daily brutality and harassment that we face – but freedom for everyone to express himself and herself in a way that is consistent with his whole humanity.⁹⁶

GLF rejected a narrow focus on civil rights for gay and lesbian people. It stressed the importance of coming out and promoted a politics that included a spectrum of activism reaching from demonstrations to “wig care and make-up classes held for the queens.”⁹⁷

⁹³ Seyforth, Scott. “Madison Alliance for Homosexual Equality (MAHE).” http://www.wisconsinhistory.org/dictionary/index.asp?action=view&term_id=14986&keyword=gay (accessed November 3, 2010); Gay Sisters, Lesbian Love: Gay Sisters meetings Sundays 1pm, 1971, Wisconsin Historical Society Archives In *Wisconsin Historical Images Website*. <http://www.wisconsinhistory.org/whi/fullimage.asp?id=59053> (accessed November 3, 2010), Lightner interview by Andrea Rottmann, July 14, 2010; Madison LGBT OH Project community. “Gay Liberation in Madison, Wisconsin: The First Decade: 1969 - 1979.” <http://lgbt.wisc.edu/ohp/timeline1969.php> (accessed November 3, 2010).

⁹⁴ Madison LGBT OH Project community. “Gay Liberation in Madison, Wisconsin: The First Decade: 1969 - 1979.” <http://lgbt.wisc.edu/ohp/timeline1969.php> (accessed November 3, 2010).

⁹⁵ Doyle, Michael. “GLF and a world re-eroticized.” *Queer Life News*, March 2, 2005. http://www.mkelgbthist.org/organiz/act_pol/gay-lib-front/gay-lib-front.htm (accessed November 3, 2010).

⁹⁶ Cited *ibid*.

⁹⁷ Cited *ibid*.

The other, moderate part of the GLO, which advanced a strategy of civil rights for lesbians and gays, transformed into the *Gay People's Union* (GPU), focusing on educational programs and social activities. GPU grew into a community-wide organization and became Milwaukee's most important gay and lesbian rights organization during the 1970s. Starting in 1971 and lasting until 1981, it published the *GPU News*, a monthly magazine that was read across the United States. From 1971 to 1972 the GPU also ran a radio program called *Gay Perspective*. Later on, the GPU opened a gay and lesbian community center that offered counseling, a library, and the Brady East Sexually Transmitted Diseases (STD) Clinic.⁹⁸ Milwaukee's lesbian and gay community was larger and more diverse than Madison's. In the late 1970s, there were more than twenty bars catering to gay men or lesbians in the city, as well as four gay men's bath houses.⁹⁹

2.2 Wisconsin politics of the 1970s and early 1980s: Protest and (the limits of) progressive politics

The state of Wisconsin lies in America's heartland, the Midwest. Situated on Lakes Superior and Michigan, it borders on the states of Minnesota, Iowa, Illinois, and Michigan. The Mississippi River constitutes much of its western border line. Founded in 1848, it attracted a wealth of European immigrants, with Germans, Poles and Norwegians the most numerous among them.¹⁰⁰ The state's strong agricultural tradition resonates in its claim as “America's Dairyland,” held forth by its license plates, though in the 1970s and 1980s, manufacturing, not farming, was the most important sector of Wisconsin's economy. Still, the state remained the nation's top dairy producer in this period.¹⁰¹ During the twentieth century, more and more Wisconsinites moved from rural to urban areas. Urban dwellers made up more than half of the state's population for the first time in 1930. By 1970, almost two thirds of the people of Wisconsin were urban, though the number decreased again in the following decade.¹⁰² Only Madison and Milwaukee had more than a hundred thousand inhabitants at that time – Madison was home to just over 170,000 people, and Milwaukee to about 717,000 in 1970.¹⁰³

⁹⁸ University of Wisconsin Digital Collections. “The *Gay Peoples Union* Collection: About the collection.” <http://digioll.library.wisc.edu/GPU/> (accessed October 11, 2010).

⁹⁹ “Wisconsin GLBT History Project: Bars and Clubs in the Milwaukee Area.” <http://www.mkelgbthist.org/business/bars.htm> (accessed September 20, 2010). The city's four gay men's bath houses were violently raided by the police multiple times in 1978 and 1979. “Wisconsin GLBT History Project: Spas/Bath houses/Health Clubs.” <http://www.mkelgbthist.org/business/health-clubs.htm> (accessed September 20, 2010).

¹⁰⁰ Wisconsin Historical Society. “Turning Points in Wisconsin History. Immigration and Settlement: 19th-century immigration;” “Turning Points in Wisconsin History. Response to 20th-century change: 20th-century immigration.” <http://www.wisconsinhistory.org/turningpoints/> (accessed October 15, 2010).

¹⁰¹ Nesbit, *Wisconsin*, 518.

¹⁰² *Ibid.* 573.

¹⁰³ Nesbit, *Wisconsin*, 574.

Madison, home of the University of Wisconsin-Madison and capital of the state, was a strongly middle-class, white-collar place, whereas the much larger Milwaukee employed many blue-collar workers in its manufacturing industries. Milwaukee's factories provided work not only for European immigrants, but also for an African American community that grew rapidly after the Second World War.¹⁰⁴ The two cities' populations differed in class and race, and they made different constituents for the political parties. The rivalry between Madison and Milwaukee and the rural-urban antagonism have been strong currents in Wisconsin politics in the second half of the twentieth century. Another important factor has been the state's religious make-up. Together, the Catholic and Lutheran Churches have dominated the state's religious landscape throughout the twentieth century. In 1990, almost fifty percent of Wisconsin's believers were Catholics, and another thirty percent belonged to Lutheran denominations. Of the remaining twenty percent, more than ten percent were adherents of non-evangelical Protestant churches, such as the United Methodist Church, the United Church of Christ, the Presbyterians and Episcopalians. Only 3.7 percent were Baptists. There was also a small Jewish population that accounted for just over one percent of the state's believers.¹⁰⁵

2.2.1 Progressivism's legacy in the Democratic and Republican state parties

Wisconsin prides itself on its progressive tradition. For the first half of the twentieth century, Wisconsin's politics did not mirror the two-party politics that characterized most other states. Until the 1950s, the Democratic party played an almost negligible role, while the Progressives, first as the liberal faction of the Republican party, and later as a separate third party, dominated the state's politics. Born in the late 19th century, the progressive movement emphasized honest government, control of corporations, the regulation of utilities and public transport, and social reform. In Wisconsin, under its leader Robert M. LaFollette, governor from 1900 to 1906 and U.S. Senator from 1906 until his death in 1925, the movement was especially strong. After the old LaFollette's death, his sons carried on with a progressive agenda, Robert Jr. as U.S. senator and Philip as three-term governor in the 1930s. In 1934, the two founded the state's Progressive party. They kept their grip on Wisconsin politics until the end of the Second World War, when the Progressive party disbanded and its members joined the state Democratic and Republican parties, establishing a stable two-party system in the

¹⁰⁴ Nesbit, *Wisconsin*, 532, Loftus, *The Art*, 2-3.

¹⁰⁵ Bradley, Martin B., Norman M. Green, JR., Dale E. Jones, Mac Lynn, and Lou McNeil. *Churches and Church Membership in the United States 1990: An Enumeration by Region, State and County Based on Data Reported for 133 Church Groupings*. Atlanta, Georgia: Glenmary Research Center, 1992, 35. The percentages had remained virtually the same for the Catholic and Lutheran Churches since the beginning of the century. See Thompson, *The History*, 60.

state for the first time.¹⁰⁶ Progressivism's legacy was an “activist, 'government can help”-approach to politics in both parties.¹⁰⁷

The Progressive influx gave the Democratic party access to the farm vote and to voters from small towns, especially in northwestern Wisconsin. Their second base was the urban-industrial vote based in Milwaukee, closely linked to organized labor. Votes from both camps were needed to secure state-wide Democratic victory. The relationship between Madison and Milwaukee Democrats was fraught; Milwaukee usually provided votes and money for the elections, but the candidates for the important state-wide offices, governor and senator, most often came from Madison.¹⁰⁸

The Republican party was similarly characterized by a rural-urban divide and a special role of the Milwaukee faction. In the 1950s, there was a strong conservative current, epitomized most extremely by Senator Joseph McCarthy from Appleton, whose name became synonymous with the anti-communist witch hunt he conducted. After the GOP (Grand Old Party, another name for the Republican party) lost the governorship – after two decades of uninterrupted Republican rule – to the Democratic party in 1959, the party's image became more moderate.¹⁰⁹ According to Wisconsin historian Robert C. Nesbit, none of the Republican governors between 1939 and 1983 was a genuine conservative, and many “were moderates or progressives whose most troublesome opposition came from within the ranks of their own party.”¹¹⁰ This was certainly true for Lee Sherman Dreyfus, the Republican governor who would put his signature under the gay rights bill in 1982. Like their Democratic counterparts, Milwaukee Republicans, who were often significantly more liberal than their small-town GOP colleagues, were expected to provide money and votes, but did not get state-wide offices in return.¹¹¹ These special marks of Wisconsin politics – the progressive legacy in both

¹⁰⁶ Cooper, John Milton, JR., “Why Wisconsin? The Badger State in the Progressive Era.” *The Wisconsin Magazine of History* 87, Nr. 3 (2004): 14–25; Conant, James K., *Wisconsin Politics and Government. America's Laboratory of Democracy*, University of Nebraska Press, Lincoln and London, 2006, XV-XVII, 4-5; Canon, David T., “Robert M. La Follette (1855-1925) and the Reform Element in Midwestern Politics.” in *The American Midwest. An interpretive encyclopedia*, hrsg. von Richard Christian K. Zacher Sisson und Andrew R. L. Cayton, 1654–1655. Bloomington: Indiana University Press, 2007, 1655; Hedlund, Ronald D., „Wisconsin. Pressure Politics and a Lingering Progressive Tradition.“ in *Interest group politics in the midwestern states*, hrsg. von Ronald J. Hrebenar und Clive S. Thomas, 305–344. Ames: Iowa State University Press, 1993, 308; Glad, Paul W. und William Fletcher Thompson, *The history of Wisconsin V. Madison: State Historical Soc. of Wisconsin*, 1990; War, a New Era, and Depression, 1914-1940, 441.

¹⁰⁷ Loftus, *The Art*, 3.

¹⁰⁸ Nesbit, *Wisconsin*, 547, 550.

¹⁰⁹ Haney, Richard C. *A concise history of the modern Republican Party of Wisconsin, 1925-1975*. Madison: Republican Party of Wisconsin, 1976, 18.

¹¹⁰ Nesbit, *Wisconsin*, 548.

¹¹¹ Nesbit, *Wisconsin*, 548.

parties, the Madison-Milwaukee animosity, and the rural-urban divide – are significant factors in explaining the legislative process of passing gay rights in Wisconsin.

Once the Republican dominance of state politics had been broken in the 1950s, the balance of power tilted slightly to the left in Wisconsin. The 1970s were an especially Democratic decade in the state. From 1971 to 1978, the governor was a Democrat. Throughout the decade, the two U.S. Senators and the majority of the U.S. Representatives were Democrats, and since 1975, the party controlled both houses of the state legislature, the assembly and the senate.¹¹² The Democratic Party was dominated by its liberal faction throughout the 1970s, both in policy and in key committee chairmanships in the legislature.¹¹³ As in Madison city politics, a number of the young Democratic state representatives had been active in the anti-war movement.¹¹⁴ Conservatives were in the minority, but retained a visible presence, as the story of the passage of the gay rights bill will show. That conservatism maintained a strong hold in the state, notwithstanding Democratic dominance and massive social and cultural changes, is apparent in the presidential election results: Wisconsin voted for Nixon both in 1968 and in 1972, and for Reagan in 1980.¹¹⁵

In the 1960s, both political centers of the state, Madison and Milwaukee, were shook up with political protest and unrest. In Milwaukee, the city's extremely segregated black population became increasingly militant as its efforts to desegregate schools, fight job discrimination and have an open housing ordinance passed fell on deaf ears at city hall. Patrick Jones' recent book, *The Selma of the North*, offers a fascinating reconstruction of the civil rights struggle in Milwaukee.¹¹⁶ In Madison, the campus of the university became one of the national centers of student protest against the war in Vietnam. I want to briefly look at these two series of incidents/political scenes because they were the background that many of the people involved in gay rights in the 1970s were coming from. Most notably, Lloyd Barbee, who first introduced a consenting adults and a gay rights bill in the Wisconsin legislature, was a leader in the fight to desegregate Milwaukee's public schools, and David Clarenbach, whose seven-year work to pass both bills succeeded in 1982 and 1983, first became politically active in Madison's antiwar movement. In addition, Madison's local politics in the 1970s were strongly

¹¹² Nesbit, *Wisconsin*, 543-544.

¹¹³ Loftus, *The Art*, 53, 56.

¹¹⁴ *Ibid.* 54-55.

¹¹⁵ Milwaukee Journal-Sentinel. "Wisconsin presidential election results, 1964 to 2008." <http://www.jsonline.com/news/president/33703659.html> (accessed October 16, 2010).

¹¹⁶ Jones, Patrick D. *The Selma of the North: Civil Rights Insurgency in Milwaukee*. Cambridge, Massachusetts; London, England: Harvard University Press, 2009.

influenced by former antiwar activists, which had important repercussions for the city's lesbian and gay community.

2.2.2 Protest in Milwaukee and Madison in the late 1960s

The city of Milwaukee, heavily immigrant since its founding in the mid-19th century and proud of its ethnic neighborhoods, saw an unprecedented influx of African Americans during and after the Second World War. Over a period of twenty-five years, the city's black community grew over 700 percent, from less than two percent of the population in 1945 to nearly 15 percent in 1970.¹¹⁷ The newcomers moved into the run-down “inner core,” the area on the city's near North Side that African Americans' settlement was limited to by formal and informal mechanisms of segregation.¹¹⁸ With African Americans also restricted from access to the municipal power structure – Vel Phillips was the first and only black person on the city's common council from 1956 to 1968 – the problem of housing segregation was not addressed. Four times between 1962 and 1967, the city's mayor and common council refused to adopt an open housing ordinance.¹¹⁹ Since the early 1960s, a number of organizations had protested segregation and discrimination with direct action techniques, such as a sit-in at the mayor's office.¹²⁰ After years of work toward a better, integrated housing situation on the streets as well as in city hall, the fight for an open housing ordinance came to a dramatic climax with open housing marches into the city's South Side, a white working-class neighborhood, from August 1967 to Spring 1968. The violent opposition that the marchers encountered gave Milwaukee the infamous nickname of “the Selma of the North.”¹²¹ In April 1968, the city finally adopted a strong open housing ordinance.¹²² Another avenue of black civil rights activism in Milwaukee was the integration of the city's highly segregated public schools. Arguing that the segregation of schools was “not merely the result of housing patterns and economics,” but “reinforced and extended by the way school officials drew boundaries, allocated resources, and enforced policy,” African-American lawyer Lloyd

¹¹⁷ Jones, *The Selma*, 23.

¹¹⁸ According to Patrick Jones, “white Milwaukeeans outside of the inner core staunchly resisted the encroachment of black people into their neighborhoods, and real estate agents, banks, and local, state, and federal authorities also worked to maintain the racial status quo in housing.” *Ibid.* 19.

¹¹⁹ *Ibid.*, 26, Nesbit, *Wisconsin*, 533-535.

¹²⁰ Jones, *The Selma*, 54.

¹²¹ In 1965, civil rights activists had marched from Selma, Alabama to Montgomery, the state's capital, to protest the violence and discrimination that excluded blacks from voting. The peaceful protesters had suffered brutal violence from the hands of Alabama state troopers. “Civil Rights Movement.” In *Africana - Civil rights: An A-to-Z reference of the movement that changed America*. Edited by Kwame A. Appiah, 106–27. Philadelphia: Running Press, 2004, 126.

¹²² Nesbit, *Wisconsin*, 533-535.

Barbee emerged as a leader in Milwaukee's civil rights struggle.¹²³ Born in Memphis, Tennessee, in 1925, and a member of the National Association for Colored People (NAACP) from age twelve, Barbee had come to Wisconsin in 1949 to study law in Madison, where he experienced the self-styled progressive city's "patronizing liberalism" and gained "new insights into the many shades of discrimination" existing outside the South.¹²⁴ After graduating, he remained in Madison until 1961, working as legal consultant to the local and state commissions on human rights and serving as president of the Madison NAACP. In 1961, he led a thirteen-day sit-in at the Capitol as part of his campaign for fair housing legislation. The same year, he moved to Milwaukee, opened a law practice, and started his school desegregation effort. He co-founded the Milwaukee United School Integration Committee (MUSIC), engaged in negotiations with city and school board officials, organized two citywide boycotts of public schools, and he filed a lawsuit on behalf of forty-one parents – both African American and white – against the Milwaukee School Board.¹²⁵ Barbee was elected to the assembly in 1964, and he served as Milwaukee representative until 1976. As a legislator, he was a vocal proponent for reform of Wisconsin's sex laws, and he was the first to introduce a bill to protect gay men and lesbians from discrimination.

At the same time as civil rights activists in Milwaukee took to the streets, thousands of students on Madison's campus protested against the war in Vietnam. At the university, protest had begun in 1963, when there were no U.S. soldiers yet in Vietnam, only military advisers. It continued as the first combat troops were sent to south-east Asia and grew when students, who had so far been shielded from the war because of their student status, were beginning to be drafted in 1966.¹²⁶ Madison students not only protested the draft, but also staged sit-ins against Dow Chemical, the company that produced napalm and that recruited on campus. Until October 1967, campus police was present at the demonstrations, and the relations between protesters and police were cordial. But when the university, fearing larger protests against Dow Chemical, called in officers of the Madison Police Department on October 18, 1967, the situation escalated. The officers were neither sympathetic to the students nor prepared to deal with masses of angry students. Dressed in riot gear, they beat students with

¹²³ Jones, *The Selma*, 62.

¹²⁴ *Ibid.*, 61.

¹²⁵ *Ibid.*, 61-79; Biography/History, Register of the Lloyd A. Barbee Papers, 1933-1982. Milwaukee Mss 16. University of Wisconsin Digital Collections, <http://digital.library.wisc.edu/1711.dl/wiarchives.uw-whs-mil00016>. Accessed Sept 3, 2010.

¹²⁶ The army was changing their deferment policy, and those male students who belonged to the lower-performing half of their class were required to do well on a new test to avoid being drafted. Maraniss, *They marched*, 103-05, 348-99.

their billy clubs, and some of the students fought back.¹²⁷ The protests continued in the following years. In 1969, the governor mobilized the National Guard to help restore order on the Madison campus, while a street dance on Mifflin Street, a street in a student neighborhood and a center of antiwar activism, turned into a three-day riot between students and police. In the same year, Milwaukee-style direct action came to Madison when Father James Groppi, the man who had led the open housing marches in Milwaukee two years earlier, organized a welfare march to the capital city and occupied the assembly chamber to protest cuts in welfare benefits.¹²⁸

One of the leaders of the campus protests, a graduate student of U.S. History by the name of Paul Soglin, took his activism outside the university. An earnest radical and a pragmatic liberal at the same time, he entered local politics in 1968 as alderman on the city council from a predominantly student ward. His first bid for mayor in 1971 was not successful, but in 1973 he won, having forged a coalition of students, liberals, and labor.¹²⁹ Along with Soglin, other former student activists were elected to the city council and the county board. Their agenda included classic progressive issues like the extension of social welfare programs, the municipalization of utilities and public participation in politics, but also ecological efforts and a softer police policy on casual marijuana users.¹³⁰ Soglin, who sometimes served as disc jockey at one of Madison's gay bars, proved to be a good friend to the lesbian and gay community in 1978, when two conservative preachers tried to repeal Madison's gay rights ordinance, as will be discussed in greater detail in chapter three.¹³¹ It was this stimulating political environment between radicalism and liberalism, between the university and local politics, that the young David Clarenbach experienced and where he formed his political beliefs. His political beginnings can be found in his teenage years, when he became active in Madison's anti-war and civil rights movements.¹³²

¹²⁷ Maraniss, *They marched*, 103-05, 348-99.

¹²⁸ Adent, Leonard G., and Jerome L. Fox. "Summary of Significant Legislative Action, 1969 session." In *Wisconsin Blue Book 1970*. Edited by H. R. Theobald and Patricia V. Robbins, 353-62. Madison, Wis. 1970; Costello, Megan. "History of the Mifflin Street Block Party." *The Badger Herald*, April 28, 2010. http://badgerherald.com/news/2005/04/28/history_of_the_miffl.php (accessed October 22, 2010).

¹²⁹ Maraniss, *They marched*, 510-11, Buhle, *History*, 36.

¹³⁰ Altbach, Philip G., and Dennis Carlson. "Militants in Politics." *Society* 13, no. 5 (1976): 54-57, 54; Buhle, *History*, 36-37.

¹³¹ Buhle, *History*, 37.

¹³² Cain, Paul D. *Leading the parade: Conversations with America's most influential lesbians and gay men*. Lanham Md.: Scarecrow Press, 2002, 296.

2.3 How a bill becomes law in Wisconsin

Since this thesis seeks to explain how a civil rights issue became a law, it is important to understand the legislative process in Wisconsin. How is a problem or concern put into the form of a bill, and how does a bill proceed through the legislature before becoming a law? While the idea for a new law often comes from citizens, they cannot introduce a bill in the legislature. Only a legislator or a legislative committee can do that. Others can request legislation for a certain purpose, but they have to find a representative or a legislative committee that is willing to introduce the bill.¹³³ In contrast to many other U.S. States, there is no initiative process that would allow citizens to force the legislature to take up an issue, or to bypass it altogether and vote on the issue in a state-wide referendum.¹³⁴ All bills have to be drafted by the Legislative Reference Bureau (LRB), “a nonpartisan legislative service agency responsible for providing research, library, and bill drafting services to the legislature.”¹³⁵ Only legislators and legislators-elect, the assembly and senate chief clerks, and the governor may use the LRB drafting services.¹³⁶ Everyone else wishing to have a bill drafted needs to go through one of these authorized persons. As this thesis will show, the draft of the gay rights bill was initiated by a regular citizen who contacted his representative, who in turn filed a drafting request with the LRB.

Once a bill draft is complete, it can be introduced in one of the chambers of the legislature: the assembly, which consists of ninety-nine representatives, and the senate, made up of thirty-three senators. Before introduction, the bill's author can ask members of her or his house to sign on as coauthors, and members of the second house to sign on as cosponsors. The chief clerk of the bill author's house receives the bill, and the presiding officer of the house – the speaker of the assembly or the president of the senate – assigns it to a committee.¹³⁷ The presiding officers are elected by their house at the start of the session. Since the candidates for the office are selected by the party caucuses – the group of all house members of a particular party – the presiding officers are usually members of the majority party.¹³⁸ The standing committees are established by the rules of each house and are organized by their area of jurisdiction, for instance Aging, Women and Minorities, Energy, or Health and Human

¹³³ Roe, Richard, Robert Nelson, Pamela Kahler, and Robin Kite. “The Legislative Process in Wisconsin.” In *Wisconsin Blue Book 1993-94*, 99–193, 114.

¹³⁴ *Ibid.*, 115.

¹³⁵ *Ibid.*, 119.

¹³⁶ *Ibid.*

¹³⁷ *Ibid.* 133-134.

¹³⁸ *Ibid.* 105.

Services.¹³⁹ The assembly speaker appoints committee chairpersons, vice-chairpersons, and members, though minority party members are nominated by the minority leader. In the senate, the committees and their chairpersons are nominated by the Committee on Senate Organization, made up of the president and the majority and minority leaders and assistant leaders.¹⁴⁰ All bills have to pass a committee before they get to the floor, where the whole legislative body votes on them. Many bills never make it out of committee and die before the whole chamber can vote on them – either because the committee has rejected them, or because it hasn't taken any action on them. Those bills that are seriously considered by the committee are often given a public hearing, where citizens and representatives of groups and organizations can step forward and offer their support or opposition. The public hearing is followed by an executive session, when the committee discusses and decides on the bill. If the committee recommends the bill, or if the vote is tied, the bill is reported – it has made it out of committee and will now be considered by the whole house.¹⁴¹ The reported bill is sent to the Assembly Committee on Rules or the Committee on Senate Organization, where they are scheduled for floor action. These committees decide when to put which bill on the calendar, and they can thus speed up, delay, or even prevent the passage of a bill.

To pass a house, a bill must go through three readings. The first reading occurs when the bill is introduced, and before it is assigned to a committee. Once a bill has cleared its committee and has been scheduled for floor action, it is given its second reading. At this time, amendments may be discussed and adopted, but debate on the bill as a whole is postponed to the third reading.¹⁴² After all offered amendments have been voted on, the bill proceeds to its third reading. According to the rules, the second and third readings may not take place on the same day, but the majority leader of the house may ask for unanimous consent to suspend the rules so that both readings can occur on the same day. This is what happened when the gay rights bill was being considered in the senate. After the third reading, the whole house debates the bill, and the vote takes place.¹⁴³

During the floor stage of this process, once a bill has passed the committee and is read the second and third time, members of the legislature can make motions to speed up or delay consideration of a bill. For example, opponents of a bill can make a motion to postpone a bill,

¹³⁹ Roe, "The Legislative Process," 105-106; Theobald, H. R. and Patricia V. Robbins, eds. *The state of Wisconsin 1981-82 blue book*. Madison, Wis., 1981-1982, 261.

¹⁴⁰ Roe, "The Legislative Process," 106.

¹⁴¹ Ibid. 146. Bills that make an appropriation, provide for revenue or relate to taxation have to pass the Joint Committee on Finance in addition, but this was not the case for the gay rights and consenting adults bills.

¹⁴² Ibid. 152-53.

¹⁴³ Ibid. 162-63.

whereas proponents may try to suspend the rules or set a special order of business.¹⁴⁴ As we will see in chapter three, various kinds of such tactical motions were made when the consenting adults and gay rights bills were considered.

If the bill passes one house, it is messaged to the other. Here, it goes through the same procedure as in the first house. Another public hearing may take place, and the second house may also amend the bill. If it does so, the amended bill that the second house has voted on is sent back to the first house, which has to concur in the amended version.¹⁴⁵ Once both houses have passed the exact same version of the bill, it is sent to the governor. After official receipt of the bill at the governor's office, the governor has six days – Sundays excluded – to sign or veto it. If no action is taken within these six days, the bill becomes law without the governor's signature. However, in reality, the governor usually has more than six days to consider a bill, because the legislature informally provides him or her with a copy, and officially transmits it only once the governor has signaled that he or she is ready to take action.¹⁴⁶

¹⁴⁴ Roe, "The Legislative Process," 157.

¹⁴⁵ Ibid. 164-65.

¹⁴⁶ Ibid. 166-67.

3. Passing gay rights in Wisconsin: a sixteen-year process

3.1 Sexuality in Wisconsin law in 1967

On the eve of Stonewall, the state of Wisconsin, like many other states, regarded homosexuals as criminals. What kind of sexual activity was allowed and what prohibited was painstakingly defined under Wisconsin statutes. Chapter 944 of the statutes enumerated the following sexual acts as “Sexual crimes between adults with consent” (944.15 and 944.17) or “Obscenity” (944.20):

944.15 Fornication. Whoever has sexual intercourse with a person not his spouse may be fined not more than \$200 or imprisoned not more than 6 months or both

944.17 Sexual perversion. Whoever does either of the following may be fined not more than \$500 or, imprisoned not more than 5 years or both :

(1) Commits an abnormal act of sexual gratification involving the sex organ of one person and the mouth or anus of another; or

(2) Commits an act of sexual gratification involving his sex organ and the sex organ, mouth or anus of an animal.

944.20 Lewd and lascivious behaviour. Whoever does any of the following may be fined not more than \$500 or imprisoned not more than one year in county jail or both :

(1) Commits an indecent act of sexual gratification with another with knowledge that they are in the presence of others; or

(2) Publicly and indecently exposes a sex organ; or

(3) Openly cohabits and associates with a person he knows is not his spouse under circumstances that imply sexual intercourse.¹⁴⁷

Two men or two women engaged in sexual activity were thus not the only ones who committed a crime against sexual morality. A man and a woman who were not married, and were caught in bed together, were guilty of fornication. They did not even have to be caught in the act; simply cohabitating could bring them into jail for lewd and lascivious behavior. And even married couples broke the law if their marital sex life involved oral or anal sex.

These laws were still enforced, even if not on a regular basis. A 1972 *Playboy* article tells the tragic story of a young man from the Wisconsin town of Sheboygan who got in trouble for cohabitating with his girlfriend. The man, Jim Decko, whose neighbors included a police captain and the sister of a detective, moved out of the shared apartment, but continued to visit.

¹⁴⁷ Wisconsin Statutes 1967-68, Chapter 944: Crimes Against Sexual Morality.

To prove that he was breaking the law, the police observed at what times the light in the apartment was turned off or on, and when Decko's car was moved. Two detectives interviewed Decko about his visits, and he was issued a summons. Concerned about his reputation – he had a responsible job in the city's public recreation program – he asked the police chief if the matter could be handled discreetly, but the chief declined. Decko handed in his resignation to the Sheboygan school board. The local newspaper reported on his resignation on the front page, and also informed its readers that he had been charged with a morals offense. Decko moved away, first to California and then to his home state Ohio, and tried to start anew. But he had lost his self-esteem, had trouble finding and keeping a job, and fell into a serious depression. After a few unsuccessful suicide attempts, he shot himself to death in November 1971.¹⁴⁸

The statistical data cited in the article includes twenty-seven people arrested for lewd and lascivious behavior, and eleven arrested for fornication in Sheboygan in 1967.¹⁴⁹ A study on the enforcement of the cohabitation statute conducted in 1979 by UW-Madison law professor Martha Fineman showed that there had been ninety prosecutions for cohabitation in all of Wisconsin in the period from 1973 to 1979.¹⁵⁰ There was clearly no uniform policy of dealing with allegations of cohabitation. 43.6% of district attorneys prosecuted for cohabitation, but only 5.5% prosecuted all cases referred to them and supported by evidence.¹⁵¹ The study also revealed that often, district attorneys did not prosecute to do the law justice, but for reasons that had nothing to do with the practices that the law addressed. For instance, according to a *Chicago Tribune* article informed by the study, a third of the prosecutions for cohabitation were made because the district attorney had suspicions that the prosecuted were committing welfare fraud.¹⁵² The same article claims that the anti-fornication statute was used similarly when mothers of children born out of wedlock were seeking welfare in Waukesha county in 1981. They were pressured into giving the names of their children's fathers or be prosecuted for fornication.¹⁵³ One of professor Fineman's conclusions was that the law disproportionately affected the young and the poor – “the poor because they come to the attention of [social service] officials who are likely to report cohabitation and insist on enforcement; the young

¹⁴⁸ Rhodes, Richard. “Sex and Sin in Sheboygan,” *Playboy*, August. 1972, 129-30, 186-90.

¹⁴⁹ Rhodes, “Sex and Sin.”

¹⁵⁰ Professor Martha Fineman, UW Law School, Cohabitation Project report, 1979, David Clarenbach Papers, Box 3, Folder 2, Wisconsin Historical Society Archives, Madison, Wisconsin.

¹⁵¹ *Ibid.*

¹⁵² Lipinski, Anne M. “Trouble for birds and bees in the lands of curds and whey.” *Chicago Tribune*, May 2, 1982, 1.

¹⁵³ *Ibid.*

because they always tend to be more scrutinized by the law.”¹⁵⁴ Most people prosecuted for sex offenses did not appeal to the courts. In 1980, a young Wauwatosa couple did. The circuit court judge upheld their conviction and fine of \$75 each for cohabitation, offering “Moses’ Ten Commandments” as legitimation.¹⁵⁵ Hopes were raised that this case could be used to challenge the laws on constitutional grounds and that the laws could thus be abolished via the courts. The judge later dropped the charges on a technicality, because the couple had not been openly cohabitating.¹⁵⁶ Eunice Edgar, head of the Wisconsin Civil Liberties Union (WCLU), which had assisted the couple along with the Playboy Foundation, believed that while the way through the courts might well be successful, legislative action would be preferable because the decisions of representatives had greater democratic credibility.¹⁵⁷

I have not been able to study the enforcement of the prohibition of homosexual sex. However, David Clarenbach claims that the “sodomy laws were selectively enforced under very limited circumstances to target certain racial groups, or when [the] police, particularly in the City of Milwaukee, sought to flex their muscles.”¹⁵⁸

Why was there a need to protect gays and lesbians from discrimination? Evidence for discrimination in employment, housing, and public accommodations is relatively sparse because the stigma associated with homosexuality prevented most people from publicly protesting the discrimination they experienced. Still, my research in Wisconsin provided a few examples of discrimination in employment. In 1972, a state employee in Milwaukee was fired on the sole ground of being gay. The man had worked as a houseparent at a training school for mentally handicapped male teenagers and young adults. He appealed his dismissal to the State Personnel Board. According to the board's executive secretary, his case represented the first time that the state fired a homosexual, “although a number of homosexuals had voluntarily resigned.”¹⁵⁹ The employee's superintendent said he fired him because he was open about his homosexuality and discussed it with colleagues in front of residents of the training school.¹⁶⁰ The state appeal board upheld the firing.¹⁶¹

¹⁵⁴ Lipinski, “Trouble for birds,” 1, 4.

¹⁵⁵ Doreen Weisenhaus, “Couple lose appeal in Tosa sex case,” *Milwaukee Journal*, January 19, 1980.

¹⁵⁶ Lipinski, „Trouble for birds,” 4.

¹⁵⁷ Ibid.

¹⁵⁸ Clarenbach interview, July 9, 2010, transcript page 5 (see appendix.)

¹⁵⁹ *Milwaukee Journal*. “Gay Worker Challenges Firing.” October 31, 1972, 1,11.

¹⁶⁰ Ibid.

¹⁶¹ Cain, Wilbur C., Council on Religion and Homosexuality. “In My Opinion: Firing of Homosexual State Employee Was Ill Advised in Its Implications.” *Milwaukee Journal*, March 14, 1973.

In 1977, Patrick Batt, chairperson of the board of directors of the GPU, Milwaukee's gay rights organization, was fired from his job as personnel director at a Catholic nursing home because of his "lifestyle."¹⁶² He pleaded his case in federal court, and when the judge issued a negative decision, he appealed it at the Circuit Court. In order to help his case, local gay spokespersons and business leaders set up a foundation to assist him and other gays with similar cases, and fundraisers were held throughout the state and in Chicago.¹⁶³ The Playboy Foundation also supported the case financially.¹⁶⁴ After the appeal was denied at Circuit Court, the case was taken to the U.S. Supreme Court, but Batt lost there, too.¹⁶⁵

Kathleen Nichols, a lesbian activist from Madison who was interviewed for the University of Wisconsin-Madison's Oral History Project on Madison's LGBT community, provides another example of discrimination in employment. She was fired from her job as housekeeper at a nursing home for being a lesbian. A co-worker whose advances she had refused made allegations that Nichols had made homosexual overtures to her. Even though her supervisor offered her an easy way out, Nichols decided to proclaim a lesbian identity.

I'm working in a nursing home as the head of housekeeping. (...) And I am summoned into the head nurse's office. (...) And she says, "Kathy, I've called you in because allegations have been made. They're very serious in nature." (...) "What, what?" "I know this can't be true because I've met your young husband. He needs a haircut, but, you know, I've met your young husband." (...) And so of course, the upshot was that a woman there, whose advances I had refused because though I was your age, I was her supervisor, she'd ratted me out. (...) "I know it can't be true, but it's been alleged that you made homosexual overtures toward Miss" And I'm practically doing that, screw the knuckles into the hip, "I would never do," but I had one of those 'hm' moments. And I said, "Well, what would happen if I told you that that was true." And she said, "This is not a laughing matter. I know that it isn't true." I said, "Yeah, but just what would happen if I told you it was true?" (...) And she said, "Well, then we would have to discharge you." And I had done enough walking the picket lines, you know, on strikes in a union town, you know, I'm thinking, well that's just not fair. That's just wrong. Why would you have to discharge me? Cause I'm thinking, I'm your age, and I'm taking care of incontinent people who are older than I am now. Why would it be a problem if the housekeeping lady was a lesbian? And I said, "I think I might be actually." So I get fired.¹⁶⁶

¹⁶² *GPU News*. "Gay fired for 'lifestyle'." June 1977, 4.

¹⁶³ *GPU News*. "M.H.R.A. holds fund raisers." Oct 1977, 7.

¹⁶⁴ *GPU News*. "Batt gets grant." April 1978.

¹⁶⁵ "Patrick Batt: Biography." http://www.mkelgbthist.org/people/peo-b/batt_patrick.htm (accessed October 11, 2010).

¹⁶⁶ Nichols, Kathleen. Interview by Jason Orne, March 26, 2009; University of Wisconsin-Madison Archives Oral History Program.

Nichols was outraged at the unfairness of her firing and complained with Madison's Equal Opportunities Commission. Her case became one of the examples for the passage of the city's sexual preference ordinance that was passed in 1975.¹⁶⁷

3.2 Early efforts to change the law: Lloyd Barbee

An effort to reform the laws pertaining to sexuality came in 1967, when Milwaukee legislator Lloyd Barbee introduced a bill in the assembly to decriminalize all sexual relations of consenting adults.¹⁶⁸ Apart from his dedication to civil rights for African Americans, Barbee was committed to social justice and personal freedom for everyone. His extremely liberal agenda in the assembly included, among other radical proposals, the legalization of marijuana and prostitution.¹⁶⁹ In a 1972 interview, he described how he understood his role in the legislature:

The way I see myself in the legislature is to advance legislation that I think will move Wisconsin into the 20th Century and get ready for the 21st. I see that as my way of challenging conventional wisdom, which is in my mind highly structured for the status quo and seems to leave out young people, and obviously blacks and the American Indians, and also some people who are just dissenters or eccentrics. [...] There are some people who look at legislation as being the art of the possible but they tend to start from such a low level of bargaining that their type of politics becomes the art of realistic appeasement [!]. [...] You don't compromise on principle, you can only compromise on the methods of implementation. When the methods start merging with the principle, something's wrong.¹⁷⁰

However, championing such controversial positions was only possible for Barbee because he had a solid majority in his Milwaukee district, and did not have to fear losing his assembly seat for being too liberal.¹⁷¹

Barbee's 1967 reform bill did not only seek to abolish criminal code penalties on sexual relations of consenting adults, it was also going to legalize abortion. The bill did not pass, and he reintroduced it, in slightly different form, in 1969, 1971, and 1973.¹⁷² What prompted Barbee to decriminalize consensual sex between adults? In a 1971 interview for *Gay*

¹⁶⁷ Nichols interview.

¹⁶⁸ Drafting request LRB 1763 from Lloyd Barbee concerning sex acts between consenting parties, February 15, 1967; Wisconsin Assembly Bill 678, 1967, Crimes against sexual morality, Introduced by Rep. Lloyd Barbee. Bill Drafting Records, Legislative Reference Bureau, Madison, Wisconsin.

¹⁶⁹ Biography/History, Register of the Lloyd A. Barbee Papers, 1933-1982. Milwaukee Mss 16. University of Wisconsin Digital Collections, <http://digital.library.wisc.edu/1711.dl/wiarchives.uw-whs-mil00016>. Accessed Sept 3, 2010.

¹⁷⁰ Olesen, Don. "He loves to shock the system." *Insight. Magazine of the Milwaukee Journal*, April 16, 1972.

¹⁷¹ Clarenbach interview, July 9, 2010.

¹⁷² AB 196, 1969; AB 600, 1971. That year, he introduced another proposal to eliminate all criminal sanctions against sexual acts between consenting adults, AB 1435, which also sought to lower the age of consent from eighteen to fourteen years of age. AB 1435, 1971. In the 1973/74 session, he introduced AB 442, AB 184, AB 183, 1973, Bill Drafting Records, Legislative Reference Bureau, Madison, Wisconsin.

Perspective, Gay Peoples Union's radio program that was broadcast from the WZMF radio station, Menomonee Falls, he stated,

I think sex is essentially personal and should be treated that way. [...] My point of view on this whole proposition is that the state has no business proscribing sexual activities of parties who will consent to them. [...] This country is no longer in need of going by leash and bounds. Sex in my mind is a matter of recreation and enjoyment and pleasure, it's not a means for appropriation. [...] And society will not be debauched or lowered, as a matter of fact, it will be improved.¹⁷³

While he pointed out that the bill clearly affected a larger number of heterosexuals, he also stressed the significance of legalizing homosexual intimacy:

A significant number of people in this country enjoy members of their own sex, and they do not bother people who don't want this enjoyment. Really. And they should not be harassed and beaten down and brutalized and insulted and kept out of jobs and so forth, the way our society is doing. If our heterosexual society wants to really be as strong as its image is, you have to live and let live.¹⁷⁴

Barbee had no illusions about the dim prospects of passage for his sweeping proposals. However, he mentioned that support for his efforts had increased significantly for every session that he re-introduced the sex reform bills. On the radio program, he encouraged listeners to assess the bill and make suggestions on what ought to be changed, as well as to inform their friends about the current prohibitions and contact their elected representatives to assist in getting the bill passed.¹⁷⁵ Barbee was in touch with the Midwest section of the Mattachine Society, and asked their opinion on his 1971 bill.¹⁷⁶ He actively supported the GPU by distributing their publication, the GPU News, to members of the assembly and senate.¹⁷⁷ Also in 1971, Barbee presented the first effort to ban discrimination on the basis of sexual orientation. Assembly Bill (AB) 1335 would have amended Wisconsin's "fair employment statutes by prohibiting discrimination based on an individual's sexual conduct, practices or preferences".¹⁷⁸

¹⁷³ Interview with Wis. Rep. Lloyd Barbee, *Gay Perspective*, June 13, 1971, *Gay Peoples Union* Collection, UWDC, <http://digicoll.library.wisc.edu/WebZ/FETCH?sessionid=01-37675-349658340&next=html/nfbrief.html&bad=error/badsearch.html&recno=13&entitytoprecno=13&entitycurrrecno=13&resultset=2&numrecs=12&format=B&fmtclass=briefnf&entityScanReferral=FALSE>, accessed Sept 4, 2010.

¹⁷⁴ *Ibid.*

¹⁷⁵ *Ibid.*

¹⁷⁶ Letter from Jim Bradford, Chairman Legal Committee Mattachine Midwest, to Lloyd Barbee re Sexual Consent Bill, Feb 14, 1971, Lloyd Barbee Papers, 1933-1982, Box 60, Folder 28, Wisconsin Historical Society Archives/Milwaukee Area Research Center, Milwaukee, Wisconsin.

¹⁷⁷ Letter from Lloyd Barbee to GPU News, March 10, 1972. Lloyd Barbee Papers, 1933-1982, Box 61, Folder 1, Wisconsin Historical Society Archives/Milwaukee Area Research Center, Milwaukee, Wisconsin.

¹⁷⁸ AB 1335, 1971, Bill Drafting Records, Legislative Reference Bureau, Madison, Wisconsin.

3.3 “He handed the baton to me:” David Clarenbach takes over gay rights legislation

The 1975/76 legislative session was Lloyd Barbee's last. He needed to focus on his desegregation lawsuit against the Milwaukee School Board. In a young freshman legislator from Madison named David Clarenbach, he found a committed successor. Clarenbach was only twenty-one when he got elected to the assembly to represent Wisconsin's 78th assembly district, made up of east Madison, Maple Bluff and the isthmus. "The long-haired boy wonder, a vocal Soglin-era liberal whose politics emerged from the civil rights and antiwar movements of the 1960s" had started his political activism in high school.¹⁷⁹ He grew up in a political and feminist household where his "mother was the one that went out and made speeches, and went on trips, and [his] father was the one who made sure [...] that there was dinner on the table."¹⁸⁰ His mother, Kathryn, was a university professor who became a leader in the women's movement in the state and the nation, and served as the National Organization for Women's (NOW) first chairwoman. During the beginning of NOW, she even ran the organization out of the family's Madison home for a while.¹⁸¹ His father, Henry, was a real estate agent and a local organizer for the antiwar movement, as well as a McCarthy delegate to the 1968 Democratic convention.¹⁸² During his 1970 high school spring break, the sixteen-year-old David went south to register black voters in rural Mississippi, an experience that "framed my life's commitment to social change," as he recalled forty years later. "It was here, in the Deep South, that I was exposed to the structural injustice and systemic marginalization of a significant segment of our population. I saw denial of basic civil rights and its impact on the real lives of real people."¹⁸³ Back in Madison, Clarenbach continued his activism on many different issues, from school politics – he worked to create a student position on the local board of education to assure student involvement in the educational system – to anti-war protests to managing political campaigns for candidates running in citywide elections.¹⁸⁴ Before long, he ran for public office himself. In 1972, now eighteen years old, he was elected to the Dane County Board of Supervisors, where he served two terms. It was the first year that

¹⁷⁹ Brickson, Betty, "The Power of Principle," *Isthmus* Vol. 13, No. 8, Feb 19-25, 1988.

¹⁸⁰ David Clarenbach quoted in Cain, *Leading the Parade*, 296.

¹⁸¹ Clarenbach, David. E-mail to Andrea Rottmann, October 24, 2010.

¹⁸² Biography/History, Register Kathryn F. Clarenbach Papers, 1960-1989, University of Wisconsin Digital Collection, <http://digicoll.library.wisc.edu/cgi/f/findaid/findaid-idx?c=wiarchives;view=reslist;subview=standard;didno=uw-lib-clarenbach;focusrgn=bioghist;cc=wiarchives;byte=4749913>, accessed Sept 6, 2010; Brickson, "The Power."

¹⁸³ Clarenbach, David. E-mail to Andrea Rottmann, October 24, 2010.

¹⁸⁴ *Ibid.*

eighteen-year-olds could be elected to public office. In 1974, he served on the Madison city council, and in the same year won his first assembly seat.¹⁸⁵

In their one mutual legislative session, Barbee, the parting representative, and Clarenbach, the freshman, worked together on a sweeping sexual reform bill. Clarenbach regarded Barbee as "one of my heroes and my mentor in the legislature. [...] In a way, I felt that Barbee had handed the baton to me."¹⁸⁶ Their bill, AB 269, combined many concerns of Barbee's earlier bills with even more radical objectives. It sought no less than to reduce the age of consent to fourteen, repeal obscenity, abortion, and prostitution laws, abolish criminal sanctions against consensual sex acts, permit first cousins to marry, introduce same-sex marriage, and repeal prohibitions against advertising of indecent articles, as the law called contraceptives.¹⁸⁷ Like Barbee's earlier sex bills, the proposal was not successful. Neither was Clarenbach's effort to include sexual preference as a non-discrimination category in an open housing bill that was introduced during that same session. However, the bills got press coverage, and thus started a public discussion on if, and how, Wisconsin's sex laws ought to be changed. Since AB 269 addressed so many different issues, there were few fully opposed or fully supportive reactions. On the issue of homosexuality, the liberal *Capital Times* from Madison commented benevolently, "The so-called gay rights bills and amendments to existing law deserve serious consideration," while an article from a local newspaper sent to Barbee by an indignant citizen had all but contempt for the proposed legislation that, the journalist feared, would "abdicate all sense of morality, and the essence of society is morality."¹⁸⁸ The legislators' push to lower the age of consent from eighteen to fourteen met with broad disapproval from citizens, clergy – some of whom strongly supported other portions of the bill – and the *Lacrosse Tribune*, which disbelievingly asked, "Is he kidding?"¹⁸⁹ Was he? It seems legitimate to ask why Barbee and Clarenbach opted to introduce a bill that combined so many different issues and, in its all-encompassing nature, stood no chance of passage. If they were looking to shock,

¹⁸⁵ Biography/History, Register David E. Clarenbach Papers, 1974-1992, University of Wisconsin Digital Collection, <http://digicoll.library.wisc.edu/cgi/f/findaid/findaid-idx?c=wiarchives;view=reslist;subview=standard;didno=uw-whs-mss01029;focusrgn=bioghist;cc=wiarchives;byte=182124702>, accessed Sept 6, 2010; Clarenbach interview, July 9, 2010.

¹⁸⁶ Clarenbach interview, July 9, 2010.

¹⁸⁷ AB 269, 1975, Bill Drafting Records, Legislative Reference Bureau, Madison, Wisconsin.

¹⁸⁸ "The Gay Rights Bills," *The Capital Times*, March 2, 1976; "Must all conduct be classed moral?" excerpt from "local newspaper" sent to Lloyd Barbee by anonymous citizen, ca. March 10, 1976, Barbee Papers, box 34, folder 26.

¹⁸⁹ Testimony statement from Mrs. William Hiltz at assembly hearing on AB 269; Letter from Ken Gelhaus, Pastor United Methodist Church of Stoughton, to Lloyd Barbee; Letter to Barbee from Arthur Callesen, Pastor Our Saviour Lutheran Church, Green Bay; Postcard from Harvey L. Kandler, Pastor Immanuel United Church of Christ, to Barbee; "Is he kidding?" *LaCrosse Tribune* Jan 8, 1976, Barbee Papers, box 61, folder 1.

they certainly succeeded, but it is doubtful that this course of action produced many bill supporters among legislators who were hoping to be re-elected. On the other hand, there is no doubt that changing the laws governing sexuality, and ensuring civil rights for everyone, was an earnest concern of both representatives. AB 269, I think, is a prime example of Barbee's principle-orientated approach to legislative politics.

The broad sex reform bill co-authored with Barbee was not the only radical Clarenbach bill. He represented an extremely liberal district, and the issues he took up were those of his constituents. Like his mentor in the legislature, he favored the decriminalization of marijuana. Also in his first term, he proposed to ask Congress to grant unconditional amnesty to Vietnam War draft evaders.¹⁹⁰ Other issues that he was working on were a ban on the construction of nuclear power plants until safety and environmental concerns would be addressed, legalizing abortion, and universal health care.¹⁹¹ While this closeness to his constituents resulted in large election margins, it also earned him a reputation as a not-to-be-taken-seriously, ineffective radical with many of his colleagues. As another legislator put it, “The only things that move his district are sex and dope, and sex and dope don’t go over in Waushara County. His district cares about resolutions on the draft and El Salvador and that kind of bullshit. And he recognizes that.”¹⁹² The label of the ineffective, even lazy, “flaky liberal” stuck with him well over his first term.¹⁹³ Even in 1980, after he had served in the legislature for five years, a local paper judged that he “couldn’t pass gas through the legislature.”¹⁹⁴ However, his successes in passing the gay rights and consenting adults bills, and his occupation with more mainstream issues, turned this notoriety into respect within only a couple of years. Now referred to as a “Capitol insider,” he was appointed to the chair of an important legislative committee in 1981, and in 1983, his fellow legislators elected him to be Speaker pro Tem, the second-highest-ranking officer in the assembly.¹⁹⁵

In the 1977/78 legislative session, Clarenbach introduced a number of bills to protect gays and lesbians from discrimination in employment, housing, and public accommodations. These bills didn’t make it out of committee, and were never debated or voted on in the assembly. He says that he “knew that there was going to be only one chance to bring the bill up for debate and for a vote.” Thus, he made sure that the anti-discrimination bills, while introduced time

¹⁹⁰ Brickson, “The Power“.

¹⁹¹ Clarenbach interview, July 11, 2010.

¹⁹² David Travis quoted in McCann, Dennis. “How good is David Clarenbach?” *Isthmus*, October 23, 1981. Waushara County is an extremely rural county in central Wisconsin.

¹⁹³ Behm, Don. “Clarenbach takes on a more serious role.” *Milwaukee Journal*, April 12, 1982.

¹⁹⁴ Burns, Kay, Josh Kurtz, and Meg Thale. “Madison's Social Register.” *The Daily Cardinal*, Aug 1980, 3.

¹⁹⁵ Behm, “Clarenbach,” *Wisconsin Blue Book 1983/1984*, 21.

and again, were kept in the committees, where they were relatively safe from debate, until the time was right.¹⁹⁶ In the same session, Clarenbach also proposed two sex law reform bills. AB 69, which he introduced together with Milwaukee representative Marcia Coggs, was a slightly less comprehensive version of Barbee's and Clarenbach's 1975 bill. It did no longer include lowering the age of consent, and did not seek the full repeal of the state's prostitution law. But same-sex marriage, and the repeal of the abortion law, were still on it, and that made it controversial enough to not even make it out of committee.¹⁹⁷

AB 323, introduced together with six other legislators, sought to reduce penalties and the coverage of crimes between consenting adults. It passed the committee that it was first assigned to, and was read a second time. When opponents tried to kill the bill by legislative maneuver, Clarenbach organized enough votes to save it. He counted on thirty legislators to fully support and vote for the bill, and hoped to convince twenty more to do the same.¹⁹⁸ However, two things came between this hope. For one, a Racine radio station, possibly alarmed by a local decency group, had taken up the issue and had investigated support for the bill. Legislators had been given a petition of support for the bill that bore the names of more than a hundred Wisconsin clergywomen and clergymen and ten prestigious organizations, among them the Wisconsin League of Women Voters, the Wisconsin Psychiatric Association, the National Federation of Priests Council, and the Young Women's Christian Association (YWCA). When radio commentator Donn Edmark checked these organizations, not one of them confirmed their support. They had never even seen AB 323, they said.¹⁹⁹ This was indeed a "glaring irregularity."²⁰⁰ Had supporters of the bill lied, or was it just a "minor mistake," as David Clarenbach called it?²⁰¹ According to him, the petition, which was drafted and worked on by a group of supporters, should have stated that the ten organizations "endorsed the concept embodied in the sexual privacy bill," but not specifically AB 323 itself.²⁰² Even if the organizations listed on the petition were generally sympathetic to the

¹⁹⁶ Clarenbach interview, July 9, 2010.

¹⁹⁷ AB 69, AB 323, AB 1296, AB 1297, AB 1298, 1977. Bulletin of the Proceedings of the Wisconsin Legislature. 1977 Session, Period Ending January 1, 1979. Assembly, 59, 174, 608. Legislative Reference Bureau, Madison, Wisconsin.

¹⁹⁸ Pluckhahn, Charlie, „Anita endangers sexual privacy bill,“ The Daily Cardinal, no date [1978], Kathleen Nichols and Barbara Constans Papers, Wisconsin Historical Society Archives, Madison, Wisconsin, Box 1, Folder 13.

¹⁹⁹ Edmark, Donn. Commentary AB 323 Petition, WRJN Racine, May 23, 1977, David Clarenbach Papers, Box 3, Folder 5.

²⁰⁰ Ibid.

²⁰¹ *Racine Journal Times*. "Controversial bill deserves closer scrutiny." May 10, 1977. In David Clarenbach Papers, Box 3, Folder 2.

²⁰² *Milwaukee Journal*. "Sex privacy bill stirs up a dispute." June 5, 1977. In David Clarenbach Papers, Box 3, Folder 2.

cause, and possibly willing to specifically recommend AB 323 for passage, the mistake seemed unprofessional and hurt the sponsors' credibility. Clarenbach and the other sponsors went on to secure support for the bill from the referred organizations, but they ran out of time as the legislative session was coming to an end.²⁰³

Apart from this mistake, events happening 1,500 miles away from Madison in the summer of 1977 came in the way of legalizing consenting sex between adults. In Dade County, Florida, former Miss Oklahoma Anita Bryant led her "Save our Children" campaign to repeal the local gay rights ordinance. Her success there had repercussions around the country, as a backlash against the gay rights movement set in and fundamentalist Christians began to organize and mount repeal efforts against other local ordinances. The shifting atmosphere resonated in the Wisconsin assembly, too, and additionally endangered AB 323. Ultraconservative Democrat Joanne Duren claimed to unmask the true nature of the bill when she said, "The reason for this bill being here was to legalize homosexuality. All of the sudden when the people back home found out what the bill really was, they contacted their representatives."²⁰⁴ With elections coming up in the fall of 1978, many legislators lost heart. The bill was not voted on.²⁰⁵

3.4 1978: A year of crisis. The effort to repeal Madison's gay rights ordinance

"Yes folks, Anita Bryant is coming to Madison in the form of a short, fat, male blonde – Pastor Wayne Dillabaugh," announced a writer for the local underground newspaper *Take Over* in December 1977.²⁰⁶ The anti-gay reaction had already come unsettlingly close through the repeal of the gay rights ordinance in St. Paul, Minnesota, a liberal and urban area comparable to Madison.²⁰⁷ With Pastor Wayne Dillabaugh, it had finally arrived in town. Dillabaugh had been a pastor with Madison's Northport Baptist Church since March 1975.²⁰⁸ Before coming to Wisconsin, the controversial minister had served the First Baptist Church of New Philadelphia, Ohio. There, he had started a campaign against the showing of the movie "The Exorcist," and when the city council did not close down the movie theatre, he had linked

²⁰³ Ibid.

²⁰⁴ Pluckhahn, „Anita.“

²⁰⁵ Wisconsin Legislature 1977 – Bulletin of the proceedings, 174-75.

²⁰⁶ *Take Over*. "They Shall Beat Their Children Into Plowshares." Dec 1977, 13. *Take Over* "strived to be the Madison establishment's underground newspaper," according to a history of the Vietnam era underground press. Wong, Tim. "The Wong Truth Conspiracy: A history of Madison alternative journalism." In *Voices from the underground*. Edited by Ken Wachsberger, 269–92. Tempe Ariz.: Mica's Press, 1993, 273.

²⁰⁷ Button, James W. R. B. A., and Kenneth D. Wald. *Private Lives, Public Conflicts*. Washington, D.C.: CQ Press, 1997, 69, Clarenbach interview, July 9, 2010.

²⁰⁸ Stamler, Mike. "I may name communists' as well as gays: Dillabaugh." *The Capital Times*, May 23, 1978. In *The United Records*, Box 1, Folder 4.

forces with the local chapter of the Posse Comitatus, an extreme right-wing organization that “believe[s] that the only legitimate authority is the county sheriff and any power above that is illegal.”²⁰⁹ While some citizens felt that he really wanted to take over the town, he later stated that he had associated with the Posse Comitatus without knowing who they were, and had ended their co-operation once he found out.²¹⁰ Either way, Dillabaugh knew how to lead a media-effective morality campaign. In Madison, in the fall of 1977, he spearheaded a drive against nude entertainment.²¹¹ In April 1978, after the St. Paul gay rights ordinance had fallen, he took on gay rights – which were rather “supernatural privileges,” he insisted.²¹² He announced a campaign to repeal Madison’s ordinance by referendum and enforce the state laws prohibiting fornication, cohabitation, adultery and anal and oral sex. He also considered running for mayor in the 1979 elections.²¹³ However, he could not start the repeal campaign right away because he was facing a trial for beating a five-year old child, a student at this church’s school whom he had spanked for speaking in class without raising his hand.²¹⁴ At least some Madison politicians saw him as a real danger to the city. “This kind of referendum,” mayoral aide James Rowen feared, might “split [...] the community right down the middle,” and even turn the city council into “a right-wing city council.”²¹⁵ As the eight-year reign of activist-turned-mayor Paul Soglin was coming to an end, there were fears that the progressive climate in the city might fall prey to the conservative backlash that was sweeping the nation.²¹⁶

Dillabaugh was not the only clergyman concerned about homosexuality. When he announced his repeal plans, long-time Madison pastor Richard Pritchard raised his voice, too. Other than the Baptist minister, who sought repeal of the whole gay rights ordinance, Pritchard wanted to amend it to allow discrimination in “certain sensitive vocations, such as teaching, school

²⁰⁹ “Posse Comitatus.” In Kushner, Harvey W., *Encyclopedia of Terrorism*, 299–300. Thousand Oaks: Sage Publications, 2003.

²¹⁰ Stampler, Mike. “Dillabaugh left mark on Ohio town.” *The Capital Times*, May 22, 1978. In *The United Records*, Box 1, Folder 4.

²¹¹ Dick, Sarah. “Rev. Dillabaugh slams Madison’s ‘immorality.’” *The Daily Cardinal*, May 10, 1978, 1-2.

²¹² Stone, Mike. “Dillabaugh sets three-day ‘God and Decency’ drive.” *The Capital Times*, n.d. [June 1978.] In *The United Records*, Box 1, Folder 4.

²¹³ Dick, “Rev. Dillabaugh,” Stone. “Dillabaugh,” Foley, Tom. “Anti-gay rights drive will be started here.” *The Capital Times*, April 28, 1978. In *The United Records*, Box 1, Folder 4.

²¹⁴ Christofferson, Bill. “Dillabaugh may run for mayor.” *The Press Connection*, May 13, 1978, “God reportedly tells Dillabaugh to Cool it.” *The Janesville Gazette*. June 26, 1978. In *The United Records*, Box 1, Folder 4.

²¹⁵ Christofferson, Bill. “Gay issue may split city.” *The Press Connection*, May 3, 1978. In *The United Records*, Box 1, Folder 4.

²¹⁶ For example, in the spring of 1978, about one hundred citizens organized as the “Common Sense Coalition” to “maintain a progressive influence in city government.” Common Sense Coalition. “Newsletter.” Aug 1, 1978. In *The United Records*, Box 1, Folder 1.

administration, and religious organizations.”²¹⁷ Together with other conservative clergy of the Dane County Association of Evangelicals, he petitioned Madison’s Equal Opportunities Commission (EOC) to permit discrimination on the basis of sexual orientation.²¹⁸ Their petition sought to allow discrimination of homosexuals “in the public school system” and “in public service organizations.”²¹⁹ Pritchard was also a leader for Citizens Concerned For Our Community (CCOC), a conservative grassroots organization in Madison. In early June 1978, CCOC and other conservative groups from around the state met to discuss their fight against pornography and all those “pushing promiscuity, permissiveness, and other practices that would destroy the family.” At the meeting, conservative legislator Joanne Duren also informed those present about AB 323, the consenting adults bill.²²⁰

The noise made by the conservative clergy, and the shock of seeing the gay rights ordinance in liberal bastion St. Paul fall, stirred Madison’s gay and lesbian community, and led to a new level of co-operation. As lesbian activist Kathleen Nichols remembers,

At first, we took the typically Madisonian attitude, you know, we're better and bigger than that, it can't happen here, it's just something happening down south. And then, they turned their guns on St. Paul. And the ordinance was overturned in St. Paul. And then, [...] we knew if it could happen there, it could happen here. And we stopped our attitude and decided, ok, what do we gotta do? Because it's hard to describe a time when we were advancing things really so rapidly for gay and lesbian rights, but the community was so divided. [...] The community development for the most part was very separatist, whether it was ideologically separatist or it was just culturally separatist. [...] But I think we all realized that we had a very serious threat here. And we met in the chapel at the St Frances house, the Episcopal church. Me, Barb Constans, Barbara Lightner, Arthur Grid Hall, [...] and the very radical straight pastor at St Frances, and Lee Lewis, Carla Debinski ... we hold this meeting, and we agree that [...] we are going to not be the *Gay Men's Center*, and not be the *Madison Committee for Gay Rights*, and not be the *Lesbian Switchboard*, not be the *Sapphic Sisters*, we're going to be *The United*.²²¹

²¹⁷ Pritchard quoted in Allegretti, Dan. “Gay rights law is Pritchard target.” *The Capital Times*, October 23, 1978, Christofferson, Bill. “Rev. Pritchard won’t back Dillabaugh.” *The Press Connection*, n.d. [May/June 1978?]. In *The United Records*, Box 1, Folder 4.

²¹⁸ Christofferson, Bill. “Equal opportunity law attacked.” *The Press Connection*, 1978. Kathleen Nichols and Barbara Constans Papers, Box 1, Folder 13.

²¹⁹ Greene, Robert L. “Report of the Equal Opportunities Commission on the Dane County Association of Evangelicals’ Petition to Permit Discrimination on the basis of sexual orientation.” Nov 15, 1977. *The United Records*, 1977-1981, Box 1.

²²⁰ Pritchard, Richard E. and Dewey Edwards. Letter to Wisconsin State Legislators concerned about public obscenity and Citizens for Decency Thru Law et al., May 25, 1978. Joanne Duren Papers, Box 30, Folder 10, Wisconsin Historical Society Archives, Madison, Wis.

²²¹ Nichols interview by Jason Orne, March 26, 2009.

Organized in May 1978, *The United*'s aims were "to affirm the civil rights of gay men and lesbians and to support in its totality" the city's equal opportunities ordinance.²²² *The United* was closely linked to Madison's Equal Opportunities Commission (EOC). Founding member Arthur Grid Hall was its chair at the time. Kathleen Nichols, who had been a "poster child" for the gay rights ordinance because she had been fired from her nursing job for being a lesbian, was another founding member, as was Barbara Lightner, who I interviewed for this thesis.²²³ The newly formed organization quickly established connections with other liberal groups, and sponsored a series of public forums to educate the community about gay culture, history, and the repeal threat.²²⁴

One of the first actions that *The United* took was to infiltrate Dillabaugh's congregation and take part in a big "God and Decency" rally.²²⁵ Hoping to "clean the city up and make it a decent place for kids to grow up in," the pastor planned a three-day rally at his church in June 1978. As speakers, he invited nationally known fundamentalist radio preacher Carl McIntire and Richard Angwin, the Baptist pastor who had led the St. Paul repeal effort.²²⁶ There was also a "Skydiving for Christ" show, with a born-again Christian jumping from a plane into the church's backyard, his parachute reading "Jesus Saves Yes Even You."²²⁷ However, although neither efforts nor expenses were spared, the event was no success. Angwin drew only a crowd of eighty, and McIntire a crowd of one hundred, whereas a gay rights rally held on the same weekend in Madison's Brittingham Park numbered six hundred.²²⁸ For Dillabaugh, even more discouraging than the small number of attendees at the rally was the fact that not one of the fundamentalist pastors who he had invited attended the event. In addition, he had found out that contrary to the places that had overthrown their ordinances, referendum initiatives had no binding, but only advisory force under Wisconsin law; only the Madison city council

²²² Quoted in "Register of the *The United* Records, 1977-1981: Biography/History." <http://digioll.library.wisc.edu/cgi/f/findaid/findaid-idx?c=wiarchives;view=reslist;subview=standard;didno=uw-whs-mss00569;focusrgn=bioghist;cc=wiarchives;byte=152857224> (accessed September 13, 2010).

²²³ Nichols interview.

²²⁴ Litvak, Simi. Letter to Common Sense Coalition members, July 1, 1978. In *The United* Records, Box 1, Folder 1.

²²⁵ Ibid., Lightner interview, July 14, 2010.

²²⁶ Stone, "Dillabaugh."

²²⁷ Arndt, Michael. "Skydiving for Salvation." *The Daily Cardinal*, June 27, 1978. In *The United* Records, Box 1, Folder 4.

²²⁸ Dorgan, Michael. "Preacher halts decency drive." *The Press Connection*, June 27, 1978, Jolin, Bill. "Only 80 show up for the first of Rev. Dillabaugh's rallies." *The Capital Times*, n.d. [June 23, 1978]. In *The United* Records, Box 1, Folder 4.

could decide to repeal the ordinance.²²⁹ Convinced that he did not have the necessary support to lead an anti-gay rights initiative to success, he withdrew his repeal and mayor race plans.²³⁰

The far more successful gay rights rally that weekend was the *Madison Area Gay Interim Committee's* (MAGIC) picnic, organized by gay bar owner Rodney Scheel. "Rodney Scheel (...) brought the party-hardy boys into the effort to save the ordinance. He almost solely was responsible for that through MAGIC," stressed Barbara Lightner.²³¹ At the picnic, city council member Jim Yeadon, David Clarenbach, and the Reverend (Rev.) James Wright, chair of the Equal Opportunities Commission, spoke out for gay and lesbian equality. Wright, a pastor for the African American Mount Zion Baptist Church, warned that repealing civil rights protection for gays and lesbians would lead to a slippery slope, where it would be "a matter of [...] just *which* one [group] will be next, not *if* one will be next."²³² He told the crowd that the EOC had just reaffirmed its dedication to protecting lesbians and gays from discrimination, and expressed his confidence that the repeal threat would be overcome:

This is a day for concern [...] and not a day for despair. And although there is on foot a diabolical movement to systematically destroy the rights so gained in this community, [...] with the cooperative effort we will be able to not only come through this particular battle victorious, but we will come through with a greater solidarity and a greater purpose than ever before to champion the civil and human rights [...]. We know what happened in Dade County, in Wichita, in St. Paul, in Eugene, Oregon, and we are not going to let that happen here in Madison.²³³

Over the summer of 1978, not only Madison's gays and lesbians started to organize politically. Closely connected to *The United* and the work of the EOC, the city's liberal clergy started a discussion about homosexuality and how to deal with the anti-gay rhetoric of their conservative colleagues. In October 1978, they organized a clergy conference on homosexuality, in which the Rev. Richard Pritchard, one of the initiators of the challenge to the gay rights ordinance, also took part. While Dillabaugh was out of the way at the end of June 1978, Pritchard was more perseverant and carried on with his efforts. In contrast to Dillabaugh, Pritchard had been in Madison for a long time, was not a fundamentalist, and had some credentials for his earlier activism for civil rights.²³⁴ In 1978, the minister established

²²⁹ Dorgan, „Preacher.“

²³⁰ Ibid.

²³¹ Lightner interview, July 14, 2010.

²³² Wright, James. "Meditation on civil liberties." Transcript of speech at MAGIC picnic at Brittingham Park, Madison, Wis., n.d. [1978?]. In Kathleen Nichols and Barbara Constans Papers, Box 1, Folder 13.

²³³ Ibid.

²³⁴ Both Barbara Lightner and David Clarenbach stated that Pritchard's credentials for his civil rights activism were wearing away as he became older and drifted increasingly to the right. Clarenbach interview, July 9, 2010, and Lightner interview, July 14, 2010.

himself as the primary and most active opponent to gay rights. Over the coming years, he remained steadfast in his opposition, regularly lobbying the legislature, organizing conservative citizens, and writing letters to the editors of the local newspapers. Pritchard is active to this day, his latest letter to the editor condemning homosexuality dating from March 12, 2010.²³⁵

A Milwaukee native, Pritchard came to Madison in 1947 to be a minister for Westminster Presbyterian Church. He was enormously popular and turned the church into the fastest-growing Presbyterian Church in all of Wisconsin.²³⁶ He became active in the civil rights movement, marching in Birmingham, Alabama, during the desegregation effort there, as well as battling racism at home by co-founding the EOC. He was also committed to helping alcoholics, prisoners, and the mentally ill. And he was media-savvy, starting an ecumenical television show in town in the 1950s. However, in 1967, he was cast out of his Presbyterian Church despite his popularity. Reasons for his dismissal remained unclear.²³⁷ After being fired, Pritchard changed his denomination and founded Heritage Congregational Church in 1968.²³⁸ In the 1970s, Pritchard's activism turned to what he called "the crime and personal degradation brought on by pornographers in the area of commercialized sex-for-sale."²³⁹ Together with the CCOC, he protested against nude dancing and massage parlors in Madison. He was also active against consenting adults legislation at least since 1977.²⁴⁰

Pritchard did not simply damn homosexuals; his position was more differentiated than Dillabaugh's and therefore harder to counter. By taking part in the clergy conference on homosexuality, he showed himself open to dialogue. He acknowledged that the church had often not treated gays and lesbians well.²⁴¹ Nevertheless, his conviction that protecting them from discrimination was wrong did not waver. In October 1978, he distributed a twenty-page

²³⁵ Pritchard, Richard E. "Support of gay's ordination ignores AIDS: Letter to the editor." *The Cap Times*, March 12, 2010. http://host.madison.com/ct/news/opinion/mailbag/article_32e69b59-9306-558f-89e7-34f65c2cf999.html (accessed October 2, 2010).

²³⁶ Graham, Bill. "Richard Pritchard's lonely fight against the devil." *Madison magazine*, April 1981, 12.

²³⁷ Reasons that did surface were that there were disagreements over church doctrine with fellow ministers, and "the Madison papers hinted that Pritchard was under fire for being a poor administrator, spending too much time on personal matters, and allowing pledging to fall – this despite Westminster's amazing growth." He himself felt that his activism for civil rights and prisoners lay behind his firing, as well as his media visibility. Indeed, the church may have felt uneasy about the frequent media attention for the pastor who demonstrated so much zeal for social issues. Graham, "Richard Pritchard," 10, 12-13. Barbara Lightner remembers that there were "financial reasons" for his dismissal at Westminster Presbyterian Church. Lightner interview, July 14, 2010.

²³⁸ Heritage Congregational Church. "History." <http://www.heritagemadison.org/history.html> (accessed September 13, 2010).

²³⁹ Pritchard, Richard E. Letter to The Press Connection. *The Press Connection*, June 8, 1978, 6. In Kathleen Nichols and Barbara Constans Papers, Box 1, Folder 13.

²⁴⁰ Pritchard, Richard E. "Letter to members of Wisconsin State Assembly regarding AB 323." June 14, 1977. In David Clarenbach Papers, Box 3, Folder 5.

²⁴¹ Allegretti, "Gay rights law."

pamphlet in Madison titled “Should the homosexual lifestyle be legalized?”²⁴² In this paper, he addressed the support that the gay community was getting from some members of the clergy and explained why he could not join them, but felt obliged to act against gay rights:

A number of clergy, believing that it is a matter of fair play and human rights, have come out in support of the ‘gay’ community’s request for its lifestyle to be openly accepted as normal without restrictions. I have had several conversations with leaders in the gay community, and with their supporters. I respect their sincerity and can understand their desire to be accepted. But the more I listened and studied, the more I became persuaded that their lifestyle is not healthy. Instead of confirming it [...], I believe its orientation should be discouraged and its practice stopped. There is growing evidence that it can be healed. As a strong advocate of human rights for over 30 years in Madison, it was not an easy decision to reach that, while homosexual preference may be an understandable sickness, given the imperfect society in which we live, active homosexual practice is a direct violation of the rights of a moral society under God. The Madison Ordinance [...] violates the State Statutes and should be amended. [...] It is the employer, and those who are concerned about their children, who are now being discriminated against.²⁴³

Many pro-gay activists saw Pritchard’s activities as the more dangerous. His good standing in Madison, his earnestness – a journalist of the left-leaning Madison weekly *Isthmus* called him “a man of honesty and genuine conviction” – and his less aggressive, compassionate approach to homosexuals would lend his arguments more legitimacy, they feared.²⁴⁴ However, *The United* was clearly better organized and connected than Pritchard. In October and November, the organization had three joint meetings with liberal clergy to discuss how to deal with Pritchard’s attacks on the ordinance. Also present was EOC chairman James Wright, who informed the meeting about the commission’s report on the petition drive to amend the ordinance started by Pritchard and the Dane County Association of Evangelicals. The report and the EOC’s recommendation would be presented to the city council in December, and Wright met with mayor Soglin to discuss “the best political strategy in presenting the report to the Council”.²⁴⁵ In addition, Soglin attended a meeting of *The United* and gave recommendations on how to best lobby shaky members of the city council.²⁴⁶ There was little Pritchard could do against such close ties to power. When the EOC’s recommendation that Madison keep the gay rights ordinance was presented to the city council in January 1979, it acted accordingly.

²⁴² Pritchard, Richard E. “Should the homosexual lifestyle be legalized? An urgent memo to all concerned citizens.” Oct. 1978. In David Clarenbach Papers, Box 5, Folder 23.

²⁴³ Ibid.

²⁴⁴ Milverstedt. “Sex, Religion & Politics.” *Isthmus*, December 30, 1977, 3, 8, 11-12.

²⁴⁵ MCRC and United Steering Committees. Minutes of Joint Meetings, Oct 24, Oct 31, November 14, 1978, *The United Records*, Box 1, Folder 1. Direct quote from Oct 31 minutes.

²⁴⁶ MCRC and United Steering Committees, Minutes of Nov 14, 1978 meeting.

1978 had been a year of crisis for Madison's lesbian and gay community. The threats to abolish the anti-discrimination protections for homosexuals had been serious, and they had met a largely unprepared gay and lesbian community. However, this community showed that it was capable of organizing strong support from its own as well as from the liberal establishment and from interested and open-minded clergy. Faced with aggressive efforts to push back what progress had been made for them, the city's formerly only loosely organized gays and lesbians overcame the rift between gay men and lesbians and founded a strong political organization. *The United* continued to grow, and established itself as an important actor in Madison's gay scene. In the coming years, it pushed for legal change, lobbying politicians and keeping in touch with and supporting those legislators who supported gay and lesbian equality. Its magazine, *Gay Madison*, informed the community about upcoming political events like elections, but also hearings for the consenting adults legislation that David Clarenbach was trying to get through the legislature. *The United* helped recruit the "party-hardy crowd" for political activism by collecting signatures for petitions at gay bars.²⁴⁷ And it documented, celebrated, and informed about lesbian and gay life in its TV program "Glad to be gay," broadcast on Sunday nights at prime time on Madison's public access channel.²⁴⁸ In the end, Rev. Wright's words had come true. Madison's lesbian and gay community and its allies had indeed "come through with a greater solidarity and a greater purpose".²⁴⁹

3.5 Building support for state-wide legislation, 1979-1981

3.5.1 In Madison: Trying to pass consenting adults in the 1979-80 session

In the assembly, David Clarenbach had closely followed the developments in Madison. He had spoken at the MAGIC picnic, had urged the Madison city council to keep the gay rights ordinance, and had supported *The United*, on whose Board of Trustees he was.²⁵⁰ He regularly updated the organization on how his bills were coming along in the legislature. He was also in

²⁴⁷ Lightner interview, July 14, 2010.

²⁴⁸ Carter, David, and Michael Henry. *The United* press release: Launch of TV program Glad to be gay, January 25, 1979, *The United Papers*, Box 1, Folder 2. Scott Seyforth has written a history of the program in an undocumented essay that he kindly provided me with. The tapes of the show do no longer exist. The library that had agreed to keep them as an archive of Madison's gay liberation movement deemed them unimportant because they were watched very seldomly, and de-accessioned them in 2006. Most tapes were sent to a landfill. Seyforth, Scott. *Glad To Be Gay: Gay Cable Access Television in Madison, WI in the Gay Liberation Era*; unpublished manuscript.

²⁴⁹ Wright, Meditation.

²⁵⁰ Dorgan, „Preacher,“ Clarenbach, David. Letter to the Madison City Council, November 3, 1978, David Clarenbach Papers, Box 6, Folder 2, Wisconsin Historical Society Archives, *The United*. Board of Trustees phone numbers, n.d., *The United Records*, Box 1, Folder 1, Wisconsin Historical Society Archives.

touch with gay rights activists in Milwaukee and the *Gay Peoples Union* there.²⁵¹ After being elected to his third term in the assembly in the fall of 1978, he took up both his efforts concerning lesbians and gays again. As in the preceding session, he introduced three bills to protect homosexuals from discrimination, addressing the realms of employment, housing, and public accommodations. It is noteworthy, though, that the wording of the bills had slightly changed. While the earlier bills had referred to “sexual preference,” the term used now was “sexual orientation.”²⁵² Probably, Clarenbach made this change in reaction to the religious right's rhetoric of a homosexual lifestyle – a rhetoric that suggested that being gay was a choice. The term “sexual preference” also could be understood to imply that people's sexualities could be governed by their wills, whereas “sexual orientation” sounded less flexible.²⁵³ The anti-discrimination bills were introduced and referred to the committee on Judiciary, but nothing else happened. There was no public hearing and no vote on any of these bills.²⁵⁴

The consenting adults bill saw more action. Clarenbach introduced AB 514 together with seven other representatives. *The United* flanked the legislator's work by organizing a lobbying conference where citizens could learn about “the workings of state government” and how they could support the bill.²⁵⁵ At the public hearing on August 2, 1979, citizens and clergy testified both for and against the bill, but, according to an *Isthmus* reporter's account, the hearing eventually “gave way to religious absolutism and emotional excess.”²⁵⁶ But even if Clarenbach came out as the winner of this exchange of pleas, the committee did not act on the bill. To push the legalization of sex between consenting adults, supporters of the bill came up with a different strategy. Some activists felt that David Clarenbach's association with the bill hurt the cause rather than helping it, that his reputation as ineffective radical prevented the bill from being considered seriously. “I hear that the suggestion might be made that you divorce yourself from this legislation,” wrote concerned Milwaukee activist Roger Durand to

²⁵¹*GPU News*. “Sex laws introduced in Wisconsin.” Feb 1977, 5, Durand, Roger, and David Clarenbach. Letters, September 17, 1976, November 22, 1976, January 10, 1977, January 17, 1977, February 26, 1979, David Clarenbach Papers, Box 6, Folder 4, and Box 3, Folder 6, Wisconsin Historical Society Archives.

²⁵²AB 1296, AB 1297, AB 1298, 1979, Bill Drafting Records, Legislative Reference Bureau, Madison, Wisconsin.

²⁵³ The debate over “preference” and “orientation” also split gay men and lesbians in the National Gay Task Force. The women preferred “preference” because it played down the biological aspect of sexuality, while the men rejected the term for precisely that reason. They advocated the use of “orientation” because they did not interpret sexuality as a matter of choice, and because they believed “preference” would play into the hands of opponents of gay rights. Clendinen/Nagourney, *Out for Good*, 265.

²⁵⁴ AB 1296, AB 1297, AB 1298, 1979. Bulletin of the Proceedings of the Wisconsin Legislature. 1979 Session, Period Ending January 5, 1981. Assembly, 592. Legislative Reference Bureau, Madison, Wisconsin.

²⁵⁵ *GPU News*. “Rights bills: Stalled in Illinois, a maybe in Wisconsin.” July 1979. <http://digioll.library.wisc.edu/GPU/> (accessed November 10, 2010).

²⁵⁶ *Isthmus*. “scenes.” August 10, 1979.

Clarenbach, asking him not to do so.²⁵⁷ One of those urging the legislator to divorce himself from his long-time project was Barbara Lightner, coordinator of *The United*. She describes why she wanted Clarenbach to take away his name from the bill, and how a new strategy was conceived:

We decided we needed to sponsor it through someone other than representative David Clarenbach. As much legislation as he'd introduced in behalf of the community, there were several problems. [...] He did not follow through on the bills that he did introduce, so they never passed, they just languished. And [...] in order to have this happen, you have to have the respect of your colleagues. Representative Clarenbach was lacking in all of those areas. So a friend of a friend of mine worked in Senator Carl Thompson's office. ... And she said to me, Barbara, ... nobody's gonna sponsor this bill, except Clarenbach, and one and two others, maybe. ... But there is a thing called a request bill, and it can be introduced at the request of [individuals and organizations.] ... So I came back to *The United's* board, [and] my board said, yes, do it. ... And so we did [start enlisting sponsors.] And the first name on the bill was the League of Women Voters. ... Then in addition, we got the Wisconsin Civil Liberties Union, AFSCME, Madison Police Department, various churches, various individual members of the clergy. So that more than half the page was filled out in that tiny little print, with people and organizations requesting the bill be enacted. So ... at that particular time when it was not safe to be out, that was ... an excellent strategy and the way to do it.²⁵⁸

Asked why the bill was introduced by request, David Clarenbach stated the following:

The legislature does not frequently introduce bills by committee, nor are many bills introduced at the request of individuals. [...] It can be interpreted many ways. It can be establishing a broad base of support, it can establish a level of institutional credibility, it can protect squeamish legislators from having to put their names on the bill at an early stage. Particularly a controversial bill like this, when it is introduced, you don't know if it's even going to come up for a vote. And if it doesn't get out of committee, and a vote is not taken on that bill, then why in the world would you have taken that much flak and extend yourself politically for no reason. [...] It is true that, especially at that point in my legislative career, I was viewed by many people in the legislature as a bit of an extremist. [...] It served our purpose to keep my name off of it, so that I was not a lightning rod that would acquire collateral damage, let's put it that way. If I put my name on it, and I was individual sponsor, or if I and others in the legislature as co-authors, even if we put that list of requestors on the bill, it still was Clarenbach's bill. And he introduces all those crazy things, like gay marriage, and anti-nuclear power, environmental protections. [...] Those were all bills that I was introducing, and as a result, I was considered a lightning rod.²⁵⁹

Introduced as Senate Bill (SB) 552 by the committee on Human Services, chaired by senator

²⁵⁷ Durand, Roger. Letter to David Clarenbach, February 26, 1979, David Clarenbach Papers, Box 3, Folder 6, Wisconsin Historical Society Archives.

²⁵⁸ Lightner, Barbara. Interview by Scott Seyforth, May 9, 2009; University of Wisconsin-Madison Archives Oral History Project.

²⁵⁹ Clarenbach interview, July 27, 2010.

Carl Thompson, the bill was passed by the senate. At the public hearing, no one testified against the bill – possibly a sign that the new strategy worked.²⁶⁰ In the assembly, the bill was narrowly recommended for passage by the Criminal Justice and Public Safety committee. Even the governor, Republican Lee Sherman Dreyfus, said that although he himself did not engage in the practices that the bill sought to legalize, he would probably sign it, because he believed that “the law always ought to conform to societal norms once they are that overwhelming.”²⁶¹ Nevertheless, when it came to the vote, the bill was defeated, 54 to 41. Clarenbach showed no sign of disappointment. He thought that the elections coming up in the fall of 1980 had made many legislators afraid to vote for a bill that they supported at heart. He called it “a very productive exercise” and predicted it would pass in the next session.²⁶²

3.5.2 *In Milwaukee: lesbian and gay community pressure, a local gay rights ordinance, and church organizing*

As the 1970s passed, things were happening not only in liberal hotbed Madison, but also in Milwaukee. Apart from offering social services, the *Gay Peoples Union* (GPU) lobbied for legal changes. Since the early 1970s, the GPU was in touch with Lloyd Barbee over gay rights legislation.²⁶³ In 1977, Alyn Hess, a founder of GPU, was one of the organizers of the Wisconsin Alliance for Sexual Privacy (WASP) to support passage of a consenting adults law.²⁶⁴ The alliance was made up of eight Wisconsin legislators, several clergymen and -women, gay rights activists, NOW, and the WSCU, among others.²⁶⁵ Roger Durand, another GPU member, kept in touch with David Clarenbach's efforts to pass gay rights and consenting adults legislation.²⁶⁶

Apart from political activism, the relationship between the churches and homosexuals was a much-debated issue in the city. In February 1972, the Rev. Wilbur C. Cain, pastor of

²⁶⁰ *The Capital Times*. “No opposition heard on Senate bill broadening sexual freedom.” February 28, 1980.

²⁶¹ Eggleston, Richard. “Sex conduct law changes advance.” *Wisconsin State Journal*, March 21, 1980, section 3, page 3.

²⁶² Pommer, Matt. “Assembly kills bill legalizing consenting sex.” *The Capital Times*, March 26, 1980, *Oshkosh Advance-Titan*. “Sexual privacy bill rejected by assembly.” April 2, 1980.

²⁶³ Barbee, Lloyd. Letter to Mr. Murry, GPU, about public hearing of Judiciary Committee on AB 1435, February 8, 1972, Hess, Alyn. Letter to Lloyd Barbee, May 18, 1976, Lloyd Barbee Papers, Box 34, Folder 26, Hess, Alyn. Letter to Lloyd Barbee about GPU radio program, AB 600, May 3, 1971, Lloyd Barbee Papers, Box 60, Folder 28, University of Wisconsin-Milwaukee Archives.

²⁶⁴ Hess, Alyn. Letter to Mr. Green about foundation of Wisconsin Alliance for Sexual Privacy, support for AB 323, February 12, 1977, Alyn W. Hess Papers, Box 1, Folder 6, University of Wisconsin-Milwaukee Archives.

²⁶⁵ Stationary of the Wisconsin Alliance for Sexual Privacy, n.d. [1977], Alyn W. Hess Papers, Box 1, Folder 6, University of Wisconsin-Milwaukee Archives.

²⁶⁶ Durand, Roger, and David Clarenbach. Letters, September 17, 1976, November 22, 1976, January 10, 1977, January 17, 1977, February 26, 1979, David Clarenbach Papers, Box 6, Folder 4, and Box 3, Folder 6, Wisconsin Historical Society Archives.

Ebenezer Lutheran Church in Milwaukee, founded a local chapter of the Council on Religion and the Homosexual (CRH).²⁶⁷ The national organization had been founded in 1964, and its objective was “to promote a continuing dialogue between the religious community and homosexuals.”²⁶⁸ Though the Milwaukee chapter was short-lived – it disbanded in October 1974 – and although there was considerable frustration on both the clergy and the gay side, it succeeded in making homosexuality an issue that was talked about in churches, and in building connections between clergy and gay men and lesbians. For instance, at the 1974 Annual Meeting of the United Methodist Church in Wisconsin, the church's board of global ministries added gays to its list of new concerns.²⁶⁹ In the United Methodist Church – the second largest American Protestant denomination at the time – the debate went on after the CRH had been disbanded, leading to “a letters to the editor battle” on the pages of *Dimensions*, the denomination's publication in the state.²⁷⁰ Another Protestant denomination in Milwaukee, Zion United Church of Christ, took a clear stand against gay rights, opposing its own general synod's 1975 declaration of support for gay civil rights.²⁷¹

In the late 1970s, a young Catholic Milwaukeean by the name of Leon Rouse organized an inter-denominational clergy committee to support passage of a local gay rights ordinance.²⁷² Unfortunately, little is known about Rouse, even though his crucial role in passing gay rights legislation in Wisconsin is widely acknowledged.²⁷³ The Committee for Fundamental Judeo-Christian Human Rights was started in 1979. It consisted of Rouse and ministers from five Protestant denominations: Lutheran, United Methodist, Episcopal, United Church of Christ, and United Presbyterian.²⁷⁴ According to a self-description, the Committee studied cases of discrimination on the basis of sexual orientation. In July 1980, when the Milwaukee Common Council voted ten to six to adopt an ordinance banning discrimination in employment, the

²⁶⁷ Articles of Incorporation, Council on Religion and the Homosexual, Feb 1972, Eldon Murray Papers, Box 3, Folder 12, University of Wisconsin-Milwaukee Archives.

²⁶⁸ The Council on Religion and the Homosexual. Leaflet, n.d., Eldon Murray Papers, Box 3, Folder 12, University of Wisconsin-Milwaukee Archives.

²⁶⁹ Schinlaub, Charles J. Letter to friends and members of CRH, October 23, 1974, Schinlaub, Charles J. Letter to Eldon Murray, July 8, 1974, Eldon Murray Papers, Box 3, Folder 12, University of Wisconsin-Milwaukee Archives.

²⁷⁰ *Milwaukee Sentinel*. “Methodists argue over 'gays'.” March 20, 1976; In Lloyd Barbee Papers, Box 61, Folder 1, University of Wisconsin-Milwaukee Archives.

²⁷¹ Zion United Church of Christ, Milwaukee. Statement on homosexuality, November 14, 1975, Lloyd Barbee Papers, Box 60, Folder 28, University of Wisconsin-Milwaukee Archives.

²⁷² Kulieke, Stephen. “On, Wisconsin: How gay rights won.” *Chicago GayLife*, March 5, 1982, 6; *Gay Peoples Union*. Milwaukee Update, June/July 1980, *Gay Peoples Union* Records, 1971-1984, Box 2, Folder 3, University of Wisconsin-Milwaukee Archives.

²⁷³ Barbara Lightner, David Clarenbach and Dan Curd all stated clearly that Leon Rouse's support was crucial for the passage of the anti-discrimination law in 1981/82. Lightner, Clarenbach, Curd interviews by Andrea Rottmann, July 2010.

²⁷⁴ Kulieke, „On, Wisconsin“,“ 6.

Committee had played a pivotal role.²⁷⁵ Passage of the ordinance had been controversial, with fundamentalist Christians calling city hall before the vote to find out how the ordinance could be repealed if it should pass. Cautious aldermen had therefore amended the ordinance before passage with a statement that said that the protections did not equal condonement of homosexuality.²⁷⁶ After this local success, the Committee turned to the state level, recommending implementation of state-wide anti-discrimination legislation in 1981.²⁷⁷ Leon Rouse's role in the passage of the state-wide gay rights law will be discussed later.

Even in the Catholic Church, the largest denomination in Wisconsin, things were stirring. In 1977, a new archbishop was ordained in Milwaukee, Rembert G. Weakland. Weakland quickly gained a reputation as someone not afraid to speak out on issues that were important to him, even if they were not completely in line with Catholic dogma or the pope's teachings. Heavily influenced by the Second Vatican Council, he believed that the church had to open itself to the world and the massive changes that society was going through. He stressed the importance of listening to the laypeople, questioned the institution's rigid hierarchy, and argued for allowing women to play a greater role in the Catholic church, going so far as to state that he "saw no convincing theological reasons against women's ordination."²⁷⁸ As Weakland writes in his autobiography, his understanding of sexuality also changed as a result of the Second Vatican Council, from an inherently sinful and negative threat to a positive and beautiful part of the human condition.²⁷⁹ Not surprisingly, the archbishop's sometimes unorthodox opinions frequently put him at odds with his superiors, with other clergy, and parts of his congregation, and established a reputation for him as the most liberal bishop in the United States.²⁸⁰

In 1980, the archbishop addressed the topic of homosexuality in the Milwaukee Catholic Herald Citizen, the Milwaukee diocese's weekly. In his column "Herald of Hope," he clearly rejected efforts to "heal" homosexuals, affirmed the Catholic Church's stand that homosexuals were not sinners, but must remain celibate, and asked his readers to support gay men and lesbians:

²⁷⁵ Ibid.

²⁷⁶ *Milwaukee Journal*. "City council passes gay rights ordinance." July 8, 1980.

²⁷⁷ Committee for Fundamental Judeo-Christian Human Rights. Letter in support of AB 70, May 11, 1981, David Clarenbach Papers, Box 2, Folder 24, Wisconsin Historical Society Archives.

²⁷⁸ Weakland, Rembert G. OSB. *A Pilgrim in a Pilgrim Church: Memoirs of a Catholic Archbishop*. Grand Rapids, Michigan / Cambridge, U.K.: William B. Eerdmans Publishing Company, 2009, 107-110, 239.

²⁷⁹ Ibid., 108-109.

²⁸⁰ Weakland, *A Pilgrim*, 271.

The bishops of the United States in a pastoral letter in 1976 called 'To Live in Christ Jesus' officially stated that homosexuality as a condition is not sinful. [...] Experience shows that very few, even with the best therapists, are capable of changing their sexual orientation. Many are coming to the realization that God loves them as they are and that He invites them to open out in concern for others. [...] Current Church teaching which we Catholics must adhere to expects Gay people to remain celibate, a position which is difficult for them to accept, but, frankly, one which I cannot sidestep. [...] We have to see Gay people, then, not as an enemy to be battered down, but as persons worthy of respect and friendship. [...] They too believe in – Jesus – but that does not alter their sexual orientation. In justice, I would hope that we can grow beyond the myths surrounding the gay person, myths, for example, that picture all Gays as perverters of children – a picture that simply is not true. We must be concerned, also, about their rights. Consequently, I cannot believe it is a Christian attitude that would block them from holding responsible positions in the community. It seems clear to me that Gay people – like all of us – fare better when they are able to develop stable relationships, when they are not relegated to a same-sex society, when they are permitted to contribute their talents to relieving injustices in our society, when they are loved and respected as people trying to grow, humanly and spiritually. I invite all in the Catholic community to join me in showing this kind of respect [...] so that we can assist all members of society in the exercise of their rights, so that no one is treated as a second-class citizen or as somehow 'contaminated.'²⁸¹

When Weakland wrote these sentences in July 1980, he was not only expressing his theoretical position on homosexuality. In hindsight, his column can be read as a coming-to-terms with his own homosexuality and his struggle to stay true to the vow of celibacy he had taken. As he writes in his autobiography, after a belated sexual awakening at age forty-five, Weakland had accepted his homosexuality by the time he became archbishop of Milwaukee.²⁸² He was unprepared, however, to find that someone could find him sexually attractive. During his first years in Milwaukee, Weakland struggled with the transition from being Abbot Primate of the International Benedictine Confederation to becoming archbishop of a large U.S. city. In the summer of 1979, a time of loneliness and isolation after the deaths of Pope Paul VI, who Weakland had been very close to, and his mother, “the strongest influence in my life,” he befriended a local gay man, Paul Marcoux. He developed a “romantic [] infatuation” for Marcoux, and for a few months, their relationship involved sexual intimacy. While Weakland understood their relationship as one of consenting, equal partners, Marcoux later claimed to have been “date rape[d]” by him.²⁸³ After it became clear to Weakland that Marcoux was primarily interested in extracting financial support from him, he resolved to end their relationship. He also feared that he could not continue seeing

²⁸¹ Weakland, Rembert G. Archbishop. “The Archbishop shares: Who is our neighbor?” *The Milwaukee Catholic Herald Citizen*, July 19, 1980.

²⁸² Weakland, *A Pilgrim*, 198, 7.

²⁸³ Weakland, *A Pilgrim*, 6-7.

Marcoux without constantly endangering his vow of celibacy. When he wrote in his column that “frankly,” he “cannot sidestep” the need for gay people to remain celibate, he may in his mind have addressed Paul Marcoux. Just a little more than a month later, on August 24, 1980, he wrote a letter to Marcoux, explaining why he had to end their relationship: “Gradually I came back to the importance of celibacy in my life – not just a physical celibacy but the freedom the celibate commitment gives. [...] There is no other way for me to live, Paul. [...] Say I am seeking escapes, but I must be me.”²⁸⁴

The column may have been a deeply personal reflection of Weakland's inner struggles. It was also a calmly argued appeal to respect gay people, to “be concerned ... about their rights,” to allow them “to develop stable relationships,” and to “assist” them “in the exercise of their rights.” It was, or at least it could be read as, an unequivocal statement for gay rights, and it came from Wisconsin's most important Catholic bishop. Having Weakland's support would later prove instrumental in the passage of the nation's first state-wide anti-discrimination law for gay men and lesbians. In 1980, it helped pass Dane County's local anti-discrimination ordinance. Dick Wagner, Dane County supervisor at the time, relates, “I had that [Weakland's column] on the desk of all the supervisors the night the county board debated it.”²⁸⁵

3.6 Passing AB 70, 1981/82

The passage of the anti-discrimination bill for gay men and lesbians in the 1981-82 legislative session, AB 70, took just over one year. As some observed, the process was so swift that it seemed like the bill “sailed” through the legislative chambers without encountering any obstacles.²⁸⁶ This impression of easy waters was, however, the result of a deliberate effort by David Clarenbach to keep the process as low-key as possible. Behind the curtains, the bill was flung about violently, went through quite a few tempests, and found itself in distress more than once. Its passage was closely linked to the fate of its sister ship, the consenting adults bill, which is why this chapter starts out with how that endeavor fared in the 1981-82 session. The following part discusses who was involved in the drafting of AB 70, and why the bill was finally put to debate in 1981. Next, I will offer a short, factual description of the bill's passage, of the order of events. With that established, I want to examine two stages of its passage in greater detail: the support of a broad array of churches, and the legislative techniques, tricks,

²⁸⁴ Ibid., 8-9.

²⁸⁵ Wagner interview.

²⁸⁶ Srb, Arthur L. “Little opposition claimed as state gay rights bill passes.” *Green Bay Press-Gazette*, February 19, 1982.

and deals that Clarenbach worked with. The last part of this chapter is devoted to a last-minute effort to kill the bill by the Religious Right.

3.6.1 *Short by one vote: Another try to pass consenting adults, 1981*

With local anti-discrimination ordinances now enacted in Madison, Milwaukee, and Dane County, was the time ripe for a state-wide law? In the legislative session of 1981/82, both the consenting adults and the anti-discrimination bill came up for a vote. The consenting adults bill was again introduced as a request bill, by request of a long list of organizations and individuals, among them many Protestant ministers, a rabbi, and seven district attorneys. AB 235 was introduced by the Committee on Criminal Justice and Public Safety on March 11, 1981.²⁸⁷ At the public hearing on March 26, different interpretations of the bible and the relationship of state and church clashed as clergy of different denominations testified in support or opposition for the bill, alternately cheered and jeered by more than a hundred bible-carrying and Amen-shouting spectators.²⁸⁸ Fundamentalist preachers from throughout the state, some members of the Moral Majority, warned that the new law would result in an increase in illegitimate births, abortions, homosexuality, and venereal disease.²⁸⁹ Even if the law could not be enforced, it had an effect on people's consciences, they believed. A Fond du Lac citizen testifying against the bill saw sex law reform as another step towards world atheism, a road that the United States had taken when it joined the United Nations and that was clearly leading “down the drain.”²⁹⁰ Among those testifying for the bill were two Universalist Unitarian ministers, who said they were “tired of certain religious groups trying to impose their standards on everybody else” and wanted the state out of the bedroom.²⁹¹ Democratic Representative Dismas Becker from Milwaukee, a former Catholic priest, argued that morality was the churches', not the state's realm.²⁹² From a non-religious viewpoint, Dane County District Attorney Jim Doyle, Jr. said that the laws were impossible to enforce. Having unenforceable laws on the books, he claimed, would breed disrespect for the law as such.²⁹³

About a month later, on April 23, 1981, the committee recommended passage of the bill, 7 to 5. Opponents inside and outside the legislature continued their efforts to kill the bill.

²⁸⁷ Wisconsin Legislature: Bulletin of the Proceedings of the Wisconsin Legislature. 1981. Assembly. Legislative Reference Bureau. Madison, Wis, 178-180.

²⁸⁸ Johnson, Dirk. “Fundamentalists lash legalized sex-act bill.” *Milwaukee Journal*, March 27, 1981,

²⁸⁹ Johnson, “Fundamentalists,” Oakley, Carla. “Consenting sex hearing sparks spirited debate.” *Wisconsin State Journal*, March 27, 1981.

²⁹⁰ Johnson, „Fundamentalists.“

²⁹¹ Ibid.

²⁹² Oakley, „Consenting sex.“

²⁹³ Ibid.

Madison's Rev. Pritchard, who had also spoken out at the hearing, wrote another letter to legislators, reminding them of the economic, social and moral consequences that the bill would have. He feared that the costs for children born out of wedlock would rise, and that the family would be radically changed.²⁹⁴ The representatives also heard from PULL, *People Using Legislation Legally*, “a voluntary association of combined decency, morality and anti-smut groups,” who were equally concerned about “teenage pregnancies, venereal diseases, abortions, unmarried young mothers on welfare, adultery, divorces, broken families, and a further decay of public morality.”²⁹⁵ These very reasons were cited by representative David Prosser, a Republican from Appleton, who sought to change the bill's content by adding amendments. One of the amendments made it a crime to transmit venereal diseases, while another continued sanctions against consensual sex, but reduced the existing criminal penalties to a fine. His move to amend the bill with a declaration of intent, saying that the state did not condone any sexual activity outside marriage, was adopted.²⁹⁶ Despite this offering to placate the fundamentalist right, the bill failed by one vote on April 28. There were efforts to keep it alive and convince one more representative to switch sides or find a compromise, but they were not successful.²⁹⁷ Clarenbach conceded that it was a difficult issue for legislators to vote on, but he also pointed out what progress the bill had made since he had first introduced it in 1977, when it had got only twenty-five votes. Legislators were under heavy pressure from the Moral Majority, he said, who used tax-exempt radio stations, pulpits, and mail to intimidate the representatives.²⁹⁸ Indeed, it seemed that the Moral Majority was growing fast in the state. In April 1981, the organization had organized in five congressional districts in Wisconsin; in June, there were county chairmen in seven congressional districts already.²⁹⁹ However, the fundamentalists were not the only ones who knew how to create media attention. In Appleton, students protesting against the fornication law turned themselves in to the police, saying they had violated the law. This left the district attorney in a

²⁹⁴ Pritchard, Richard E. Letter to each state representative, May 4, 1981, David Clarenbach Papers, Box 3, Folder 5, Wisconsin Historical Society Archives.

²⁹⁵ People Using Legislation Legally (PULL). Letter to state representatives, March 21, 1981, David Clarenbach Papers, Box 3, Folder 5, Wisconsin Historical Society Archives.

²⁹⁶ *Milwaukee Journal*. “Panel gives OK to consensual sex.” April 1, 1981, Simms, Patricia. “Assembly narrowly kills sexual consent legislation.” *Wisconsin State Journal*, April 29, 1981, Section 3, Page 7.

²⁹⁷ Clarenbach interview, July 27, 2010; *Wisconsin State Journal*. “Cohabitation bill is dropped.” May 8, 1981; *Milwaukee Sentinel*. “Representative seeks compromise on sex bill.” May 6, 1981.

²⁹⁸ Pommer, Matt. “Clarenbach pledges to revive 'sex bill'.” *The Capital Times*, April 29, 1981, 34; *Wisconsin State Journal*. “Cohabitation bill is dropped.” May 8, 1981; Clarenbach, David. Final Disposition AB 235, May 7, 1981, David Clarenbach Papers, Tape 1441A, Wisconsin Historical Society Archives.

²⁹⁹ Moral Majority of Wisconsin Inc. Moral Majority Eagle, April 1981, June 1981, David Clarenbach Papers, Box 3, Folder 5, Wisconsin Historical Society Archives.

difficult situation – should he prosecute or not, given that there was no policy of prosecuting fornication cases?

To prosecute, I have to file a complaint. I have to say when a person violated the statute, where, with whom. I just don't have enough information. All these people signed was their names, addresses and birthdates. I'm not indifferent to charging them. The question is, should I place the burden of proof on the police department or should I just write to the protesters and ask them to give the information to the police department [?]³⁰⁰

The protest and the district attorney's resulting predicament validated many of the arguments for reform of the sex laws. If fornicators were not caught in the act, the law's executioner would have to ask the criminals for co-operation to be able to prosecute when charges were actually pressed. The students had succeeded in showing how ridiculous it was to have unenforceable laws on the books. Their clever and revealing action was an encouraging counterbalance against the bible-thumpers of the Religious Right.

3.6.2 Introducing the anti-discrimination bill – whose anti-discrimination bill?

Could gays and lesbians be protected from discrimination when gay and lesbian sex continued to be illegal? As in previous sessions, David Clarenbach introduced anti-discrimination legislation in parallel to his consenting adults bill. On February 3, 1981, AB 70 was introduced and referred to the committee on Judiciary.³⁰¹ But did it stand any chance after AB 235 had died? Or should it remain in committee, as it had in all the preceding years, and not come out before same-sex intimacy itself had been legalized? This was an important strategic decision, and it was widely discussed among Wisconsin's gay men and lesbians. “There was considerable dispute and debate within the gay and lesbian community on how best to proceed,” remembers David Clarenbach.

Lloyd Barbee had introduced similar bills for years, and I had been in the legislature for years, had increased in seniority, had been a member of the majority caucus, and had been put under considerable pressure from the gay and lesbian community before the anti-discrimination bill was voted on in 1981. I knew that there was going to be only one chance to bring the bill up for debate and for a vote. The timing was the one important strategic decision. The other one was to use the consenting adults bill as a vehicle to test the strength of the gay rights cause and the likelihood of passage of the gay rights bill. [...] In using this consenting adults bill, we helped to construct a, almost a shadow campaign for the gay and lesbian civil rights bill. We weren't exactly building a Trojan horse, but we were building [...] a network of community and political organizations, [and] religious groups, and build[ing] the effort

³⁰⁰ Outagamie county district attorney Michael Gage cited in "20 students admit violating fornication law", June 23, 1981, [no citation,] David Clarenbach Papers, Box 3, Folder 2, Wisconsin Historical Society Archives.

³⁰¹ Wisconsin Legislature. “Bulletin of the Proceedings of the Wisconsin Legislature: Assembly.” 1981. 111-112.

around the state that eventually resulted in the passage of AB 70 [...] by applying those same necessary ingredients to the consenting adults bill as well. [...] In the early part of 1981, I brought the consenting adults bill up. And if memory serves me correctly, it was defeated by a one vote margin. [...] And by doing that, we were able to count votes. Who is willing to stick their neck out...., who is feeling that they have a sufficiently safe political environment ... to cast a vote that might be controversial on a sexuality issue. So, when I saw that we were within one or two votes in the state assembly of enacting a consenting adults bill, that was when I brought the gay rights bill AB 70 up for a vote in the state assembly. And it was only in the fall of 1981 that the bill was ever debated or voted on in the state assembly.³⁰²

Thus, according to Clarenbach, the decision to finally bring up the anti-discrimination bill for a vote was entirely his, and it was part of a carefully planned strategy. The consenting adults bill would be used as a “vehicle to test the strength of the gay rights cause,” and if there were enough votes, he would go ahead with the second bill. According to his legislative assistant Dan Curd, however, Clarenbach like most people believed that homosexual sex would have to be decriminalized first: “Somehow it was thought the consenting adults would have to be passed first. You would have to decriminalize the act before you could ban discrimination. [...] That was David's idea.”³⁰³ Lesbian activist Barbara Lightner agrees that it was commonly believed that decriminalization would have to come before anti-discrimination legislation. In her memory, Milwaukee activist Leon Rouse suggested that it would work better the other way around.

Leon Rouse from Milwaukee told the group [of requestors] that the non-discrimination bill would be easier to pass than the Consenting Adults bill. But no one agreed with him. So they focused on the Consenting Adults bill first, and it lost. They next focused on the state-wide gay non-discrimination bill, and were able to get it passed.³⁰⁴

Curd also credits Leon Rouse with a crucial role in the decision to bring the anti-discrimination bill up for a vote. He claims that Rouse put pressure on Clarenbach by having the Legislative Reference Bureau draft another, somewhat different, anti-discrimination bill, and by asking his Milwaukee representative, Dismas Becker, to go forward with it.

Another legislator, whose name was Dismas Becker, from Milwaukee, showed up in David's office with this constituent of his named Leon Rouse. Leon had a lot of connections with people like Archbishop Weakland in Milwaukee, and the Episcopalian bishop, I don't remember his name. But anyway, Leon on his own had gone and had an anti-discrimination bill drafted with the LRB, Legislative Reference Bureau. And he came up with Dismas and had this bill. And it was a different bill than David had

³⁰² Clarenbach interview, July 9, 2010.

³⁰³ Curd interview.

³⁰⁴ Lightner, interview by Scott Seyforth.

drafted. It worked a little differently. And I won't say it was an ultimatum, but I guess Dismas says, "Well, you know, if you aren't gonna introduce something, I'm gonna introduce this." He of course wanted someone to look at it, and he looked at it, and it was actually a much simplified version. Cause it just took all the statutes that dealt with discrimination and added sexual orientation to them. But David's reluctance was, the preceding session, the consenting adults bill had gotten within a handful of votes of passage, and he was worried that this was going to somehow detrimentally affect upon it.

Leon [...] knew David had been the sponsor, but he didn't want anything to do with David. He went to Dismas and was trying to get Dismas to circumvent David, and Dismas said, "That's not the way you do things in the legislature. This is his bill, we gotta go talk to him." But the meeting got very tense. Dismas [...] made it really clear to David that he thought he should do this. [...] Cause David wasn't going to introduce his bill that session, because he was totally focussed on the consenting adults bill.³⁰⁵

Unfortunately, Becker died before I was able to verify this version with him, and as I have explained in the introduction, I have not been able to talk to Leon Rouse.³⁰⁶

However, the bill drafting records for AB 70 indicate that Rouse did indeed have the LRB draft an anti-discrimination bill, drafting request 0124. It is dated August 20, 1980, and was produced for Stephen R. Leopold, "representing Leon Rouse [!]." Leopold was a Democratic representative for down-town Milwaukee. Under "Instructions," the bill request says "same as Rouse's draft from last year."³⁰⁷ The following bill draft LRB 0124/P, the same as 1979 draft LRB 14657/1, matches 1981's AB 70 exactly. It amends all Wisconsin laws dealing with discrimination.³⁰⁸ The order of the documents in the bill drafting records thus suggests that the anti-discrimination bill as it was passed into law in 1981 originated, and is almost identical with, the bill that Leon Rouse had the LRB first draft in 1979. As I have shown before, the bills that Clarenbach had introduced until 1979 to protect gays and lesbians from discrimination separately addressed housing, employment, and public accommodations. Asked about the change from three separate bills to one comprehensive bill, David Clarenbach claimed that he "had always intended to merge those component pieces."³⁰⁹ He had no memory that Rouse's bill had any substantial influence on the bill that was passed into law.

Interviewer: So the bill that was finally introduced and that passed, that was not a mix of the two bills, but it was the bill that you had figured out and Leon, or Dismas Becker's, their bill was different?

³⁰⁵ Curd interview.

³⁰⁶ Dismas Becker died in September 2010. Silvers, Amy R. "Becker was at forefront of '60s civil rights." *Milwaukee Journal-Sentinel*, September 20, 2010. <http://www.jsonline.com/news/obituaries/103405799.html>, (accessed Sept 27, 2010.)

³⁰⁷ Legislative Reference Bureau. Drafting request 0124, 1980, August 20, 1980, Bill Drafting Records Chapter 112, Laws of 1981, Legislative Reference Bureau.

³⁰⁸ Chapter 112, Laws of 1981; bill draft 0124/P, Bill Drafting Records Chapter 112, 1981 Wisconsin session laws, LRB, Madison, Wis.

³⁰⁹ Clarenbach interview, July 27, 2010.

Clarenbach: The introduction of the bill by Representative Becker, the bill that Leon had crafted, was on a parallel track, but it was separate and distinct from our legislative effort. We knew what we were going to do, and we did it, and we did it the way we did it for a reason. And I think that that was borne out, the value and legitimacy of that strategy, was borne out by the success we enjoyed. And we did not consider pro or con features of Representative Becker's bill, and again, I really do want to emphasize that this was not seen by anyone as undercutting our efforts. And it really is complimentary in every fashion, and we saw it as that.

Interviewer: Right. And the wording of the bill that you were going to introduce did not change, and you didn't take over parts or adopt things of the Rouse-Becker bill?

Clarenbach: There certainly were features of the bill introduced by Representative Becker that were included in our bill that passed into law. And the factors that we used, the reasons, our motivations for including certain provisions in the bill were well thought out. The conclusions were reached after a great deal of thought and energy put into it. And some of the very same thought and energy was put into Representative Becker's bill. So in a sense, the efforts were being merged, and in another sense, they were taking parallel tracks. [...]

Interviewer: So there was no sitting together and discussion between you and Becker?

Clarenbach: I guess I should be more clear. I don't personally remember sitting down with Representative Becker. But I am certain that he and I had conversations, as I did with many, many people in the legislature and outside the legislature, in constructing, and moving, and forming the bill that got acted on, the bill that was voted on. I don't have sufficient memory to recall whether I met with, well I'm sure I did have discussions with Representative Becker. And I'm not trying to dodge the issue. I don't know that it is of particular import. Because we did have discussions with many people. And Leon participated in those discussions. Becker participated in them, as did many others. I never considered that to be of significant import.

Interviewer: Right. And the decision to introduce one bill that would address housing, employment, and public accommodations, instead of three separate bills, had nothing to do with the parallel bill that was introduced by Rouse and Becker?

Clarenbach: No, I can't say it didn't have anything to do with it. I think that there were contributions from many sources. And I have no doubt but that Representative Becker and Leon Rouse participated in those discussions. But I also cannot honestly say that there was a concerted effort by Representative Becker or Leon Rouse to supersede the bill or anything of that sort. [...] I know that you're wanting to make sure that you, as they say, cross every t and dot every i, I'm not sure that this issue is really of much significance of all. There was no dispute. I didn't think it was particularly useful to have a separate bill introduced to divert attention, and divert energy at a time when we could not afford any distractions in an effort that we knew was going to be an uphill battle every step of the way. But again,

maybe I'm blocking it out because, maybe I don't want to remember something, but I honestly don't recall that this was a significant issue.³¹⁰

What can one make of these three very different accounts, David Clarenbach's, Dan Curd's, and that told by the bill drafting records? If one argues from the outcome, it is indeed not “of particular import” whose bill it was that was passed into law in 1981. From a results-oriented perspective, the only important thing is that from 1981 on, lesbians and gay men in Wisconsin were protected from discrimination. However, as I have elaborated in the introduction, this thesis seeks to analyze to what degree the gay and lesbian activists who were not directly involved in the political process, but were seeking change from a more marginalized position, were instrumental in bringing about legal change. When the question is not “what happened,” but “who made it happen,” the question of the bill's authorship is of significant import. The intent and effect of Clarenbach's and Rouse's anti-discrimination bills were the same, but it seems that the one that was passed followed Rouse's draft, not Clarenbach's. This is confirmed by Dan Curd, whom I asked to clarify what role Leopold and Becker played.

The bill was introduced twice – I forgot about that. Leopold at that time was Leon's State Representative. It was introduced but no action was taken on it. Then, he had Dismas Becker have it re-drafted and that's when they approached David. David had introduced an anti-discrimination bill, [using] different language, each session but no action was ever taken on any of them. It was Leon's bill that was move through the legislature and enacted into law.³¹¹

Of course, I cannot determine who came up with the idea to simply amend all the laws dealing with discrimination, whether it was Rouse himself, Leopold or Becker, the LRB attorney who drafted the bill, or yet someone else. But since the law that is now on the books is so very similar to the bill draft that Rouse first requested in 1979, I believe he must be given due credit.

3.6.3 The bill's route through the legislature

AB 70 was introduced by representatives David Clarenbach, Stephen Leopold, Marcia Coggs, Barbara Ulichny and Dismas Becker on February 3, 1981. It was referred to the committee on Judiciary, but was withdrawn and reassigned to the committee on Health and Human Services two weeks later. The reasons for the change were twofold, as Clarenbach explains: wider

³¹⁰ Clarenbach interview, July 27, 2010.

³¹¹ Curd, Dan. E-mail to Andrea Rottmann, September 29, 2010.

committee support by having the bill associated with two committees, and more sympathetic legislators in the second committee.³¹²

AB 70 saw no action in the next few months, as the consenting adults bill was introduced and debated in March, voted on in late April, and died on May 7, 1981.³¹³ On May 12, the public hearing for the anti-discrimination bill took place.³¹⁴ It proceeded far less controversial than the one on AB 235. Thirteen people testified for the bill, but only one against it. Among the supporters, eight were associated with a church organization. There were representatives of the Lutheran Church, of the Wisconsin Baptist State Convention, of the Unitarian Universalist Church, the United Church of Christ, and the archdiocese of Milwaukee. There was Leon Rouse for the Committee for Fundamental Judeo-Christian Human Rights. There was Barbara Lightner for *The United*.³¹⁵ Others did not testify for an organization, but may have been members of gay rights groups.³¹⁶ The lone opponent was the Rev. Richard Pritchard. His warning that the law would be “chipping away at the moral strength of our society” stood little chance of countering the many endorsements from the main-stream churches.³¹⁷ On May 28, the committee voted eight to six to recommend passage of the bill.³¹⁸

The second reading took place on October 21, AB 70, and the assembly debated the bill. Representative John Shabaz, a Republican from southeastern Wisconsin and the minority leader in the assembly, made a motion to indefinitely postpone and thus kill the bill.³¹⁹ The transcript of the debate demonstrates the argumentative strategies of Clarenbach and Shabaz. Clarenbach, who spoke first, framed the issue as a question of civil rights. He cited the letters of support that he had received from religious leaders, foremost the letter from archbishop Weakland, and a statement of support from the Governor's Advisory Council for Women and Family Initiatives - “decidedly a pro-family council,” he stressed. His line of argument is concisely summarized in his plea,

³¹² Clarenbach interview, July 27, 2010.

³¹³ *Wisconsin State Journal*, „Cohabitation.“

³¹⁴ Burkholder, Steve. “Bill to ban sex bias gains strong support.” *Milwaukee Journal*, May 13, 1981.

³¹⁵ Taranto, Mindy, Committee Clerk. Committee Record, n.d. [May 1981], David Clarenbach Papers, Box 5, Folder 7, Wisconsin Historical Society Archives.

³¹⁶ Burkholder, “Bill to ban sex bias.“

³¹⁷ *Herald-Citizen-Milwaukee*. “Rights of homosexuals become issue again.” June 13, 1981.

³¹⁸ Wisconsin Legislature. “Bulletin of the Proceedings of the Wisconsin Legislature, 1981-82 Session: Assembly,” 111.

³¹⁹ Bulletin of the proceedings of the assembly 1981, 111.

Members of the Assembly, Assembly Bill 70 is not a question of morality. It's a question of civil rights. The question before us today is not whether homosexuality is admirable. It's a question of whether discrimination is tolerable.³²⁰

Shabaz, acknowledging the power of persuasion that his opponent, “one [of] the more respected members of this body,” had evoked by his enlisting of clergy, asked the assembly to nevertheless not vote blindly on the issue. Without ever calling it by its name, he conjured up the prospect of affirmative action:

I'd suggest that we look at page 9, beginning at line 18, in which it states that [...] it is declared to be the public policy of the state to encourage and foster to the fullest extent practicable the employment of all properly qualified persons regardless of...³²¹

Then, he went through the list of protected categories, and established that categories such as age, race, creed, color, handicap, sex, national origin and ancestry were rightfully protected because they were “the way we were born.” Other categories, such as political affiliation, were not protected because they were self-determined, he claimed, and the same was the case for sexual orientation. “The preference of a party, preference of a sexual orientation, preference of whether or not I shall become engaged in the commission of a felony” - all these things were a matter of choice, Shabaz argued.

“I believe the gentleman from the 83rd has not reviewed the evidence of medical science,” countered Clarenbach. Citing a 1981 report from the Kinsey Institute of Indiana & Purdue University, he maintained that “[h]omosexuality is not a lifestyle. [...] It is not a matter of choice. It's the way a person is born.”³²² From the transcript, Clarenbach emerges as the superior speaker. His arguments are clear and have the authorities of medicine and church behind them. However, Clarenbach stresses that Shabaz was a very skillful opponent, and that his decision to employ the argument of choice was clever:

Whether Shabaz knew it or not, that was the best argument he could make. And he was the best floor leader I have ever seen. [...] As much as I knew I couldn't get the bill passed by, you know, carrying the torch of [the] militant gay rights ideal [...] I had to be as thoughtful and as careful in weaving the argument as Shabaz was. Because it would have not served him well to take the religious tack. You know, to quote from the bible and all that kind of stuff. [...] You have to remember, this was the day and age of the, as they call themselves, the Moral Majority. And Anita Bryant. [...] So that would have been [...] quite palatable to all those who were against it. But he was smart not to use that argument. He used this more legitimate and [...] more reasoned and rationale distinction in what should constitute a

³²⁰ Clarenbach, David, and John Shabaz. Debate on AB 70, October 23, 1981, David Clarenbach Papers, Box 5, Folder 11, Wisconsin Historical Society Archives.

³²¹ Ibid.

³²² Ibid.

protected class. [...] I think that was the best argument he could make, and the one that would be most palatable to that impressionable middle section. Not these fervently for, not those fervently against gay rights, but [those in the middle.]³²³

Nevertheless, Clarenbach does not believe that any votes were changed that day. The motion to indefinitely postpone the bill failed fifty-five to forty-one, and it was ordered a third reading.

AB 70 continued to the senate, where it was first referred to the committee on Judiciary and Consumer Affairs, then reassigned to the committee on Senate Organization, until it finally arrived in the committee on State and Local Affairs and Taxation. At the senate public hearing, the president of Wisconsin's Moral Majority, Max Andrews, spoke in opposition to the bill after David Clarenbach had laid out his arguments in favor of anti-discrimination legislation. According to the only press coverage available to me, Andrews was speaking for three hundred churches with a mailing list of eight thousand people throughout the state.³²⁴ Echoing Shabaz' arguments in the assembly, he argued that "homosexuality is a self-imposed and man-made minority" and therefore unworthy of civil rights protections. He claimed that homosexuals "actively recruit others to be part of their sickness" and warned that passage of the law would lead to the decriminalization of homosexual sex. Even though Clarenbach had just assured senators that affirmative action measures for gays would be prevented by an amendment, Andrews said that courts might force affirmative action were the bill passed.³²⁵ Senator James Moody, who was chairman of the committee and the floor leader for the bill, asked back what such a line of argument might mean for the freedom of church groups, certainly also "man made and self imposed minority groups," in turn leading the fundamentalist to say that he would even "oppose any move by the legislature to discriminate against atheists, even if they really only worship themselves."³²⁶

With Clarenbach's approval, Moody introduced an amendment that stated in clear terms that sexual orientation was excluded from the categories of discrimination that required affirmative action measures. The committee adopted the amendment and passed AB 70 with a four to two vote on February 9, 1982.³²⁷ The amended bill was passed in the whole senate on Feb 16, 1982. It was sent back to the assembly for the representatives there to concur with the

³²³ Clarenbach interview, July 9, 2010.

³²⁴ *Our Horizons*. "Moral Majority Attacks." February 3, 1982.

³²⁵ *Ibid.*

³²⁶ *Ibid.*

³²⁷ Committee on State and Local Affairs and Taxation. Senate Amendment 1, to 1981 Assembly Bill 70, February 11, 1982, Box 5, Folder 8; Clarenbach, David. Letter to supportive clergy, February 9, 1982, Box 5, Folder 15; Moody, James. Letter to fellow senators, February 11, 1982, Box 5, Folder 9, David Clarenbach Papers, Wisconsin Historical Society Archives.

amendment, which happened two days later. From the assembly, it continued to the desk of governor Lee Sherman Dreyfus.

According to Clarenbach, gay activists from Milwaukee almost wrought havoc at the senate hearing by distributing magazines “outlining the advantages of boy love and S&M worship and chains.” The sexual practices written about in the magazines, he thought, were “unacceptable to mainstream Wisconsinites,” and if only one opposed senator would see them, they might kill the bill. He saved the situation by offering to distribute the magazines at a more appropriate time.³²⁸

3.6.4 Key to success: church support

Having the support of local representatives of all the mainstream denominations was a crucial component of success. As evident from the preceding chapters, the strategy was not new. At least since the 1977/78 legislative session, Clarenbach had sought religious backing for the consenting adults bill. In 1978, clergy in Madison had become active to save the local gay rights ordinance. At public hearings, members of the clergy had spoken both in favor and in opposition of reform of Wisconsin's sex laws, but the supporters had usually come from the large, respected main-line denominations, while opponents, mostly fundamentalists, came from smaller churches and were endowed with less credibility.

In 1981, as Clarenbach decided to go through with the anti-discrimination bill, the religious support had taken on a wholly new quality, however. The clergymen and -women that signaled their approval for protecting gays and lesbians from discrimination were the leaders of their churches in Wisconsin. Grassroots activists, Clarenbach, and the other sponsors in the legislature conducted an extremely well organized campaign to find clergy sponsors and to match them up with those legislators that they thought would be most sensitive to religious opinion. Certainly most important in a Catholic state like Wisconsin was the support of Milwaukee archbishop Rembert Weakland. Apart from him, the line of religious supporters included the whole spectre of Protestant denominations, stretching from the extremely liberal – the president of the Wisconsin conference of the United Church of Christ, and three Unitarian Universalist ministers from the Milwaukee area – to the solidly mainstream Lutherans, Episcopalians, Presbyterians, and United Methodists – the presidents of the American Lutheran Church, Northern and Southern Wisconsin district, the president of the Lutheran Church in America, Wisconsin and Upper Michigan synod, the executive presbyters

³²⁸ Stroebel, Carol. “Nuns in the Gallery: The Church, David Clarenbach, and Wisconsin's Gay Rights Bill.” *New York Native*, March 15, 1982, 16.

of the Winnebago and Milwaukee Presbyteries, the Episcopalian bishops of Milwaukee and Eau Claire, and the Sun Prairie bishop of the United Methodist church – to the fundamentalists, as represented by the executive minister of the Wisconsin Baptist State Convention.³²⁹

Leon Rouse, the Milwaukee activist who had pushed anti-discrimination legislation independently of Clarenbach, played an extremely important role in organizing religious support. As discussed above, Rouse was part of the Committee for Fundamental Judeo-Christian Human Rights, which had worked on homosexuality, religion and civil rights since 1979. Who was Leon Rouse, and what motivated his activism? To answer these questions, I have to rely on fragmented, biased, and not completely substantiated sources. Rouse is mentioned in a few contemporary newspaper articles.³³⁰ He is subject of a 2002 article in *INStep*, a Wisconsin gay magazine.³³¹ There is a short biographical entry on the Milwaukee GLBT History website, which is mostly based on the *INStep* article and does not reveal other sources.³³² And there are the accounts of him that my interview partners offered, all of whom were living in Madison at the time, three of them part of the city's political elite. All of them expressed some distance to him.

From these fragmentary sources, a conflicting image emerges. When he first appeared on record in 1978, Leon Rouse was a student at UW-Milwaukee and probably twenty-one years old.³³³ He conducted his first gay rights campaign at his university, where, as representative of *UW-Milwaukee Gay Community*, he caused the entire University of Wisconsin system to publicly state that they would not discriminate against a person on the basis of sexual

³²⁹ Statements of support for AB 70 from Ley, Ralph P., President, Wisconsin Conference of the United Church of Christ, April 1981; Larsen, Tony, Dale Robison, and Marni Harmony, Unitarian Universalist ministers in the Milwaukee area, March 3, 1981; Anderson, Vernon E., President, The American Lutheran Church, Northern Wisconsin District, September 18, 1981; Schumacher, A. C., President, ALC Southern Wisconsin District, April 13, 1981; Wilch, Robert S., Bishop of the Wisconsin-Upper Michigan Synod, April 1, 1981; Sindlinger, Vernon E., Executive Presbyter, Winnebago Presbytery, August 20, 1981; Simon, Carl R., Executive Presbyter, Milwaukee Presbytery, March 20, 1981; Gaskell, Charles T., Episcopal bishop of Milwaukee, February 12, 1981; Wantland, William C., Episcopal bishop of Eau Claire, March 19, 1981; Matthews, Marjorie S., Bishop, United Methodist Church, Sun Prairie, April 3, 1981; Wells, William L., Executive Minister, Wisconsin Baptist State Convention, April 10, 1981, David Clarenbach Papers, Box 5, Folder 11, Wisconsin Historical Society Archives.

³³⁰ *Our Horizons*, "Moral Majority;" *Our Horizons*. "Wisconsin Gay Law? Maybe." November 5, 1981; *Gay Peoples Union*. Milwaukee Update, June/July 1980, *Gay Peoples Union* Records, 1971-1984, Box 2, Folder 3, University of Wisconsin-Milwaukee Archives; and other articles.

³³¹ Attewell, William. "The Case of Leon Rouse: Wisconsin Gay Rights Pioneer Leon Rouse Languishes in Philippines Prison." *INStep*, October 29, 2002. http://www.mkelgbthist.org/people/peo-r/rouse_leon/rouse_leon-instep-102902.htm (accessed Sept 27, 2010.)

³³² "Leon Rouse: Biography." Milwaukee LGBT History Project. http://www.mkelgbthist.org/people/peo-r/rouse_leon.htm (accessed September 30, 2010).

³³³ *GPU News*. "Scholarship." Oct 1978, 12; „Leon Rouse: Biography,“ Milwaukee LGBT History Project, Attewell, „The case of Leon Rouse;“ *Our Horizons*. "Wisconsin Gay Law."

preference.³³⁴ The 2002 *INStep* article draws a predominantly positive picture of the young activist. The author talks of Rouse's efforts for the anti-discrimination bill and quotes some of his acquaintances.

Many described him as 'pushy' but all described him as exceptionally dedicated to LGBT rights in Wisconsin. 'Leon was as pugnacious and loveable, charming and personable, principled and tenacious,' said Mark Behar, a Milwaukee activist who has followed the Rouse case. 'Without Leon's hard work and dedication, Wisconsin would not have had a gay rights law in 1982, and we would not have been the nation's first gay rights state. His work to bring together diverse religious leaders from around the state was the driving force for passage of our rights.'³³⁵

The contemporary gay press also praised his relentless efforts to build support for gay rights legislation. In relation to the passage of a Milwaukee gay rights ordinance, the GPU's *Milwaukee Update* gave kudos to Rouse for his effort to organize "an inter-denominational committee of local clergy to work FOR the proposal."³³⁶ In respect to the state-wide effort, an article in the Milwaukee-based gay periodical *Our Horizons* claimed that "Rouse has been a major steering force in the movement of this legislation." It quoted a gay political activist as saying that Rouse's work as a lobbyist was "nothing short of amazing and fantastic. We will never fully appreciate the work he has done on our behalf."³³⁷

From my interviews, it appears that he was an enthusiastic, but also difficult person who was often not particularly demure in the choice of his methods. While David Clarenbach credits him for the "incredibly important role [he played] in building support within the religious community, particularly with Archbishop Weakland," and says that "we were fortunate to be able to tap into his energy and his resourcefulness," it is clear that Rouse's way of pursuing his goals caused him considerable distress.

There were times when Leon's enthusiasm and energy took him in a bit of a counterproductive direction. There were times in which Leon's pressure techniques to get certain legislators to change their position was a bit counterproductive, to say the least. So Dan [Curd] was very helpful in ... running interference, and keeping him from losing some votes that we needed very desperately.

Interviewer: What do you mean by "pressure techniques?"

Clarenbach: By harassing their offices, phoning, appearing in person, demanding to meet the legislator, contacting friends in their legislative districts, and in using perhaps inappropriate techniques in threatening someone. In some cases, there were some legislators who were gay and very closeted, and

³³⁴ GPU News, „Scholarship.“ GPU News. “WSC passes resolution.” March 1978, 9.

³³⁵ Attewell, “The Case of Leon Rouse.”

³³⁶ Gay Peoples Union. Milwaukee Update.

³³⁷ Our Horizons, „Moral Majority.“

maybe threatening them with being outed, that sort of approach that might in other circumstances be very useful and very appropriate, we found very dangerous.³³⁸

Dan Curd remembers his role as “Leon's keeper,” but he also stresses how crucial Rouse was to the bill's passage.

There was a lot of tension between Leon and David. Because obviously, David wanted to control the process. And Leon was very flamboyant, and he was very in your face. And he would ... start harassing, that's maybe too strong a word, but he would start on legislators. And David would tell him to back off, [saying,] they're not somebody you're going to convince. He would just want to do everything, this was his quest that he was on. And sometimes he didn't use very good judgment, but [...] considering his background, and that he wasn't in politics, that's understandable. [...] More often than not, I was literally between Leon and David. I think David saw me as Leon's keeper. I couldn't keep control of him if I wanted to. And that was Leon's worst arguments with David, when he thought David was trying to manipulate him, or push him in a direction, he would just [snarl].[...] There was a lot of animosity between him and David, because David didn't trust him. Too many times, he felt like he had to go put out his fires. Leon didn't trust David, he thought he was doing it all for his glory. [...] They really needed each other. And that's what I realized ultimately. You can think what you want, but neither one of them could have done it without the other.³³⁹

Curd also states that the idea to bring the clergy in was entirely Leon Rouse's and that it had not previously occurred to him and Clarenbach. While my research suggests that the idea of winning clergy support was not new, Rouse certainly had connections to the clergy that Clarenbach did not have. Especially helpful in a Catholic state like Wisconsin was Archbishop Weakland's advocacy. “See, Leon basically brought Weakland in on this. He just worked indefatigably,” says Barbara Lightner. According to her, Milwaukee gay activist and community organizer Alyn Hess mentored Rouse and encouraged him to speak with the archbishop.³⁴⁰ The 2002 *INStep* article describes how Rouse acquainted Weakland with himself before asking the bishop to speak out for anti-discrimination for gays and lesbians:

At that time, Rouse - for months in advance - sat in the front row of the church at which Archbishop Weakland was performing mass so he would become familiar to Weakland. Then, Rouse eventually approached Weakland in regards supporting AB70.³⁴¹

The final line-up of religious supporters was impressive, and it certainly dwarfed the religious opposition to AB 70. Apart from the many Christian denominations, support came also from

³³⁸ Clarenbach interview, July 9, 2010.

³³⁹ Curd interview.

³⁴⁰ Lightner interview by author.

³⁴¹ Attewell, „The Case of Leon Rouse.“ Rumor has it that Rouse also used blackmail to bring in other closeted gay clergy members. Curd, Wagner interviews.

representatives of the Jewish faith.³⁴² David Clarenbach describes how the clergy letters were used to gain individual votes in the legislature:

In some cases, we identified the religious affiliation of that lawmaker. So if someone was Catholic, they would suddenly get a copy of the letter that Archbishop Weakland had written supporting gay and lesbian rights. If the policy of some national congregation was anti-gay rights, we would try and find a local minister who was supportive of gay rights. It was an individual by individual effort.³⁴³

In articles in the gay magazines *Equal Times* from Minneapolis, *Chicago GayLife* and *Our Horizons* from Milwaukee, Leon Rouse explains how the Committee for Fundamental Judeo-Christian Human Rights worked with the clergy, and how members of the clergy helped to convince individual representatives. All in all, Rouse estimated that the Committee worked with over a thousand clergy members. “In any district in Wisconsin, we could find ten to fifteen ministers” who supported the bill, he said. “If you give ministers a chance, I think the overwhelming majority of them will come through and support gay rights. My philosophy is not gay power, but gay people and their friends.”³⁴⁴ Church leaders enlisted “hundreds of individual ministers, priests and nuns in key legislative districts,” who would then lobby their representative.³⁴⁵ Not only would they write letters, but “certain pastors and bishops would get on the phone directly to a given member of the Assembly to query their vote and actively urge their support,” Rouse recalled. “It was great!”³⁴⁶

Appealing to a legislator's religious beliefs was one way of courting her or his vote. Other interests, such as organized labor, the Milwaukee police union, and the federation of teachers, had similar persuasive power, and it was crucial to win their support, or at least prevent them from becoming active against the bill. After six years in the assembly, David Clarenbach had become a skilful politician who knew what made his colleagues tick, and who was superbly connected within the legislature. His procedural knowledge, rhetorical gift, interest group and constituent backing, inventive spirit and occasional ruthlessness gave him all the tools he needed to maneuver a potentially controversial bill into law. The following chapter will shed light on his tactical moves in the legislature.

³⁴² In his explanatory statement upon signing the gay rights bill, governor Dreyfus cited the broad religious support, including the Jewish community. Dreyfus, Lee S. Statement upon signing the anti-discrimination bill AB 70, n.d. [February 25, 1982], David Clarenbach Papers, Box 5, Folder 16, Wisconsin Historical Society Archives.

³⁴³ Clarenbach interview, July 9, 2010.

³⁴⁴ Kulieke, Stephen. “On, Wisconsin: How gay rights won.” *Chicago GayLife*, March 5, 1982.

³⁴⁵ Stults, Eric. “Churches help pass rights law in Wisconsin.” *Equal Times*, March 3, 1982.

³⁴⁶ *Our Horizons*, „Wisconsin Gay Law.“

3.6.5 *Counting votes, cutting the deals, creating smoke and mirrors, and circumventing pitfalls*

In our interview sessions, David Clarenbach repeatedly stressed the importance of counting votes before bringing up a bill. “Vote counting is as important as giving a good speech, or getting those interest groups to [support you.] ... I've never brought a bill for a vote unless I knew what the vote was gonna be,” he said. How could Clarenbach know how each individual legislator would vote? He, the other sponsors of the bill, friends in the legislature and his assistants Dan Curd and Linda Kessel Roovers targeted every representative individually and tailored a set of arguments to fit their beliefs and their sensitivities and dependencies from their voting bases. One way to target them was the religious support discussed in the preceding chapter. Apart from the churches, AB 70 was endorsed by a diverse group of secular organizations. They included the Wisconsin Student Association, the American Federation of State, County, and Municipal Employees (AFSCME) AFL-CIO, the WCLU, the State Bar of Wisconsin – the organization of all lawyers practicing in Wisconsin – and the Governor's Advisory Council for Women and Family Initiatives.³⁴⁷

Getting the votes of the Democratic representatives from Milwaukee was no easy feat, as Clarenbach points out. “There were some very conservative Milwaukee Democrats who, on almost every social issue from abortion on down, [said], njet, njet, njet. They were on the very conservative side.”³⁴⁸ However, there was a sure way to win their support, as he goes on to explain. “Almost to a tee, they were supported by two important political action groups in the state. These conservative Milwaukee Democrats had organized labor and they had the Milwaukee police union of police officers.”³⁴⁹ Clarenbach had been a labor supporter throughout his legislative career, so he had no problem to get the unions to back AB 70. The police was a different matter. The Milwaukee Police Department (MPD) had a reputation for being brutal and racist.³⁵⁰ In 1979, it had repeatedly raided the city's gay baths under its notoriously homophobic and autocratic chief Harold Breier, who headed the department since

³⁴⁷ Murn, Charles, Wisconsin Student Association. Letter of support for AB 70, January 25, 1982, Box 5, Folder 12; Boyer, Dennis L., AFSCME AFL-CIO. Letter of support for AB 70, January 26, 1982, Box 5, Folder 12; State Bar of Wisconsin. Support for legislation to prohibit discrimination on the basis of sexual orientation, June 21, 1978, Box 3, Folder 8; Governor's Advisory Council for Women and Family Initiatives. Statement of support for AB 70, September 8, 1981, David Clarenbach Papers, Box 5, Folder 11, Wisconsin Historical Society Archives.

³⁴⁸ David Clarenbach interview, July 9, 2010.

³⁴⁹ Ibid.

³⁵⁰ Rodriguez, Joseph A., and Mark Shelley. “Latinos and Asians in Milwaukee.” In *Perspectives on Milwaukee's Past*. Edited by Margo Anderson and Victor Greene, 162–91. Urbana and Chicago: University of Illinois Press, 2009, 168; Dougherty, Jack. “African Americans, Rights, and Race-Making.” In Anderson (Ed.), *Perspectives* 131–61, 143; Jones, Patrick D. *The Selma of the North: Civil Rights Insurgency in Milwaukee*. Cambridge, Massachusetts; London, England: Harvard University Press, 2009, 148-161.

1964 and was frequently compared to J. Edgar Hoover, the fiercely anti-communist FBI director.³⁵¹ Others, however, held Breier and the MPD in high esteem, crediting him with keeping crime rates low.³⁵² In Milwaukee politics, the MPD thus played an important role.

How could Clarenbach rally the union of police officers behind the anti-discrimination bill? He traded his vote. The Milwaukee police officers' union had great interest in a bill that sought to repeal residency requirements for MPD officers. The city of Milwaukee required its police officers to live in the city in which they were enforcing the law. The bill that the police officers' union pushed for was referred to the labor committee, which Clarenbach belonged to. In exchange for the backing of the powerful police officers' union, he voted for the repeal of the residency requirements.

Because I was on the labor committee, and because this was the highest priority bill of the Milwaukee police officers' union, and because I was a key vote on the margins - it could have gone either way - you scratch my back, I'll scratch yours. And you know what they say, politics isn't pretty sometimes. And the legislative process in particular. They say the two things you should avoid witnessing is how sausage is made, and how laws are passed in the legislature. They're both dirty, disgusting, and that's why a lot of good people don't want to be in politics. Because sometimes, you have to get down [...] and arm-wrestle with those S.O.B.s [sons of bitches]. And that was the only way we got this bill passed. I mean, we could have had every goddamn political group in the state, [...], but if there weren't some votes being traded, the bill wouldn't have passed. Period. It wouldn't be law today. But Joe Andrea. Gary Barczak. Bob Behnke. Eugene Dorff. Tom Hauke. John Plewa. Louise Tesmer. Those people are votes that we would not have had - period - if I hadn't engaged in that vulgar, distasteful part of the political process in America today.³⁵³

A few of the votes for AB 70 came from Republicans: six votes of forty-nine in the assembly, and four of nineteen in the senate. This seems noteworthy from today's experience of extreme partisanship and the close relationship of parts of the GOP with the Religious Right. Things were different in Wisconsin in the early 1980s, though. Wisconsin's Republican Party was still influenced by its Progressive legacy. The governor, Lee Sherman Dreyfus, was an outsider, not a party man. He was a professor of communications and the chancellor of UW-Stevens Point when he joined the GOP in 1978 in order to run for governor. At that time, only

³⁵¹ Milwaukee Police Department. "Harold Breier 1964-1984." <http://www.milwaukee.gov/Breier13126.htm> (accessed October 4, 2010); "Wisconsin GLBT History Project: Spas/Bath houses/Health Clubs." <http://www.mkelgbthist.org/business/health-clubs.htm> (accessed September 20, 2010); Nash, J. M., Bennett H. Beach, and Hollis Evans. "Law: Accidents or Police Brutality?" *Time*, October 26, 1981. <http://www.time.com/time/magazine/article/0,9171,925014-2,00.html> (accessed October 4, 2010).

³⁵² Snyder, Ronald H. "Milwaukee police chief controversy began back in Breier era." *OnMilwaukee*, January 9, 2003. <http://www.onmilwaukee.com/buzz/articles/breier.html> (accessed October 4, 2010).

³⁵³ Clarenbach interview, July 9, 2010.

six percent of voters had heard of him.³⁵⁴ He was more liberal than the party cadre, and the Republican establishment fought him during the gubernatorial race.³⁵⁵ The party endorsed U.S. Representative Robert Kasten, but Dreyfus beat him in the primaries, and he also beat the Democratic incumbent, Marty Schreiber. Dreyfus was surrounded by a team of young, non-ideological advisers, among them Paul Swain, Mark Musolf, and Steve Gunderson.³⁵⁶ Gunderson would later be the first Republican congressman to come out as gay.³⁵⁷ Paul Swain was chairman of the New Republican Conference, a group of Republicans that were fiscally conservative, but socially liberal. Gunderson was also part of the group, as were several of the Republicans that voted for AB 70.³⁵⁸ Clarenbach speculates that some Republican friends of Gunderson's may have known that he was gay, or may have known other lesbian and gay people and may for that reason have been sympathetic to the issue.³⁵⁹

Certainly, in 1981, when the GOP was not yet “hijacked” by the Religious Right, as Dreyfus would later put it, there was less fear of voter anger and more willingness among Republicans to vote for bills that were associated with gays and lesbians.³⁶⁰ Some of the Republican legislators who cast their vote in favor of the anti-discrimination bill were further encouraged to do so by a local Republican county organization that sent a resolution of support for AB 70. This was an instance of “smoke and mirrors” politics, as David Clarenbach reveals:

In some instances, there were no Republican Party organizations in a legislator's district, but we knew of individuals who were gay or lesbians who were Republicans, and we got those people to get a couple of their friends together and incorporate as a Republican county organization. It was a smoke screen, but that was one of the ways that we were able to get some, and reinforce some of the support we were

³⁵⁴ Theobald, H. R. and Patricia V. Robbins, eds. *The state of Wisconsin 1981-82 blue book*. Madison, Wis., 1981-1982, 4; Silvers, Amy R. “Lee S. Dreyfus: 1926-2008.” *Milwaukee Journal-Sentinel*, January 4, 2008. <http://www.jsonline.com/news/obituaries/29416359.html> (accessed October 6, 2010).

³⁵⁵ Kraus, . *Let the people*, 137.

³⁵⁶ *Ibid.*, 139, 144, 146. According to Dan Curd, Doug Nelson, who is today executive director of the AIDS Resource Center of Wisconsin, was also part of the circle of liberal advisers. Curd interview; Milwaukee LGBT History Project. “Doug Nelson: Biography.” http://www.mkelgbthist.org/people/peo-n/nelson_doug.htm (accessed October 5, 2010).

³⁵⁷ Burr, Chandler. “ANTIPOLITICS '94: Congressman (R), Wisconsin. Fiscal Conservative. Social Moderate. Gay.” *The New York Times Magazine*, October 16, 1994. <http://find.galegroup.com/gtx/infomark.do?&contentSet=IAC-Documents&type=retrieve&tabID=T004&prodId=AONE&docId=A174512298&source=gale&srcprod=AONE&userGroupName=fub&version=1.0> (accessed November 4, 2010).

³⁵⁸ Randall Knox and Barbara Lorman included their membership in the New Republican Conference in their Blue Book biographies. Biographical entries for Knox and Lorman, *Wisconsin Blue Book 1981-82*, 46-47. According to David Clarenbach, Randall Radkte was also a member of the Conference. Clarenbach interview, July 9, 2010. Scott McCallum's wikipedia entry also claims that he was a member. wikipedia.org. “Scott McCallum.” http://en.wikipedia.org/wiki/Scott_McCallum (accessed October 6, 2010).

³⁵⁹ Clarenbach interview, July 9, 2010.

³⁶⁰ *Ibid.*; Kraus, Bill. “Bovine crapola.” April 9, 2004. Fighting Bob Guest Blog. <http://www.fightingbob.com/guestblog.cfm?mode=archive&theyear=2004&themoth=4> (accessed October 6, 2010).

getting from the Republicans. [T]here were a number of counties in the state that suddenly had Republican party organizations appear out of nowhere. [...] I believe there were gay and lesbian Republicans who devised that strategy. It's very, very clever."³⁶¹

Support also came from closeted gay legislators. Steve Gunderson did not vote for it, but assemblyman Dick Flintrop and senator David Berger did. Both were gay and closeted Democrats, and both were helpful in getting the votes together.³⁶²

Notwithstanding so many positive premises, the bill got in serious trouble a couple of times. "There's more than one way to kill a bill," explains David Clarenbach.

You can kill a bill by voting it down, or you can kill the bill by amendment. Take a little bit out here, take a little bit out there, take a little bit up here, take a little bit down there, and pretty soon, there's nothing left of the law, the bill, except its shell. And sometimes it's better to have nothing than to have a charade, a facade of something that you think might be meaningful.³⁶³

The amendment that the bill's sponsors were most afraid of was the "dreaded teacher amendment" - an amendment that would exclude teachers from the non-discrimination rule.³⁶⁴ The Wisconsin School Board Association indeed had such an amendment drafted.³⁶⁵ The bill's supporters saw it as especially dangerous for two reasons. If it were introduced, it would pass, because conservative legislators, and representatives from marginal districts, would see it as a necessary concession to their conservative constituents. And it would open the door to excluding other professional groups from the bill.³⁶⁶ Thus, the bill's sponsors had to prevent the amendment from even being introduced. "We had to control this process so much that even those who were against the bill could be prevailed upon not to introduce any amendments," elaborates Clarenbach. "And that is really hard. Because some of these people are, you know, holy rollers. It's not that they're scared politically. They just hate gays."³⁶⁷ How could the "teacher amendment" be stopped? As luck would have it, the chair of the assembly education committee, the committee through which all bills related to school politics had to be moved through, was a gay man, Dick Flintrop. Clarenbach claims that Flintrop, on the day AB 70 was debated and voted on in the assembly, used his position to make the amendment disappear:

³⁶¹ Clarenbach interview, July 9, 2010.

³⁶² Ibid.

³⁶³ Ibid.

³⁶⁴ Ibid.

³⁶⁵ Senate amendment to 1981 assembly bill 70, LRBa3258/1, 1981, David Clarenbach Papers, Box 5, Folder 8, Wisconsin Historical Society Archives.

³⁶⁶ Clarenbach interview, July 9, 2010.

³⁶⁷ Ibid.

Dick Flintrop, who was gay, played this unique and pivotal role that again, can only be cited now, with the safety of some distance. We discovered that the Wisconsin School Boards Association and their lobbyist had drafted an amendment to exempt school teachers. And he was scouting around to find some sponsor to introduce it. Any amendment had to have at least one legislative sponsor for it to be introduced. And we found out about this, and Dick Flintrop went over to the lobbyist for the School Boards Association, and said, "I understand you got your amendment." And he said, "Yes." And Flintrop looked him in the eye and said, "Well sir, as you well know, every one of your bills come[s] through my committee. And I would suggest to you that you fold that amendment and put it in your pocket. And if you have to go back to your board of directors, you say, 'I tried to get it introduced, but there was no support for it.' Because Sir, if you don't do as I ask, not one of your bills, for the remainder of the time that I breathe the air in the legislature, and that I'm chairman of this committee, none of your bills will ever see the light of day again." And so this lobbyist knew what was smart and did indeed fold that amendment, and put it in his pocket. And it was not introduced.³⁶⁸

Another amendment was attached to the bill, however. As it was debated in the assembly, some legislators worried that AB 70 would require affirmative action measures, that employers would have to hire a predetermined number of homosexuals equivalent to their percentage of the working population.³⁶⁹ Opponents of the bill, led by conservative Democrats Joanne Duren and Wayne Wood, threatened to block the bill's sending to the senate. Wood, who conducted regular bible study sessions in his office, warned that gays would have to be hired to supervise "mentally disturbed children" as well as to transport prisoners, a job where there would be "too much opportunity for abuse," as he curiously believed.³⁷⁰ Clarenbach did not understand the bill to require affirmative action, and he pointed out that employers had not come up with affirmative action related to the non-discrimination categories age, religion, and developmental disabilities.³⁷¹ Still, he inquired with the state Affirmative Action Office and the Department of Administration whether the bill could be understood that way. An attorney with the Department of Administration replied that he considered the bill ambiguous, and asked that the legislature clearly stated its intention. In addition, governor Dreyfus let it be known that he would only sign the bill if it explicitly prohibited affirmative action.³⁷² Since passage of the bill seemed only possible with this curtailing, AB 70's sponsors introduced and passed senate amendment one, ruling out any affirmative actions programs that addressed sexual orientation.³⁷³

³⁶⁸ Clarenbach interview, July 9, 2010.

³⁶⁹ Definition of affirmative action as used by the Wisconsin Department of Administration as cited in Turner, "The gay rights state," 106-107.

³⁷⁰ Pommer, Matt. "State's gay rights bill threatened." *The Capital Times*, October 23, 1981.

³⁷¹ *Ibid.*

³⁷² Turner, "The gay rights state," 104-105.

³⁷³ Committee on State and Local Affairs and Taxation. Senate Amendment 1 to 1981 Assembly Bill 70.

3.6.6 Last-minute suspense and a happy ending

After the amended bill had passed the senate, it went back to the assembly, so that the representatives there could vote on the amendment, too. After the assembly agreed on the amendment on Thursday, February 18, 1982, AB 70 was sent to the governor. With the bipartisan votes it had in both houses, and the broad religious and non-religious backing it had, chances looked good that the non-ideological Dreyfus would sign it. As the news was spread that the senate had passed the bill, and that it would probably become law within the following days, suddenly the Religious Right awakened. Coordinated by the Green Bay Moral Majority chapter, Christian radio stations in Milwaukee, Racine, and Madison alerted their listeners to the bill on Friday. That day, twice every three hours, “public service announcements” urged the audience to call the governor with comments on the bill, resulting in 370 calls from listeners that asked the governor to veto AB 70.³⁷⁴ People calling the stations for clarification about the announcements were falsely told that the bill would force schools to seek out and hire lesbians and gays.³⁷⁵ This was a serious threat, Clarenbach realized.

But the real fire pins, the real fanatics, the people like Richard Pritchard from all across the state, we really caught them by surprise. [T]he period between when the Senate concurred and the governor signed was really the birth of right-wing radio in Wisconsin. This signified the birth of the Rush Limbaugh, right-wing religious radio influence in Wisconsin. The radio stations are what triggered the religious groups, and then the Republican operatives [...] launched an extraordinary campaign of pressure that really made me afraid. Because in retrospect, as clear-cut as Dreyfus' statement was, it was not clear to me that he was going to sign it. There were thousands and thousands of letters and phone calls. He was being inundated.³⁷⁶

The phone campaign continued after the weekend. As it became known that the Christian Right was bombarding the governor with calls to kill the bill, Madison's listener-sponsored, left-wing radio station WORT asked its listeners to call Dreyfus' office, too. On Monday, the five public lines to the office received 600 calls on AB 70, and about the same amount of people called on Tuesday. “Our life has been ruined,” groaned Dreyfus' communications aide William Kraus. “We're not getting anything else done around here. It's enormously tiring and distracting.”³⁷⁷ Calls from supporters and opponents of the bill were now about even. Kraus

³⁷⁴ Kulieke, Stephen. “On, Wisconsin: How gay rights won.” *Chicago GayLife*, March 5, 1982, 8; *Milwaukee Sentinel*. “Radio stations spur calls to governor.” February 23, 1982; Allegretti, Dan. “Callers, radio stations sparring over bill for homosexual rights.” *The Capital Times*, February 23, 1982.

³⁷⁵ Plaisted, Mike. “Church groups assail sex orientation bill.” *The Daily Cardinal*, February 25, 1982.

³⁷⁶ Clarenbach interview, July 9, 2010.

³⁷⁷ *Wisconsin State Journal*. “Gay-rights bill triggers phone deluge.” February 24, 1982.

said that he hoped that the governor would act on the bill soon, if only to rescue the staff.³⁷⁸ Most callers who opposed it cited the bible's prohibition of homosexuality, but many supporters also argued from a religious standpoint.³⁷⁹

There was an easy way out for Dreyfus. If he wanted the bill to become law, but dreaded being seen as a supporter of gay rights – as opponents would certainly draw him – he could simply not act on it until Tuesday, March 2, when it would automatically become law without his signature.³⁸⁰ That, however, was “not the governor's style.”³⁸¹ On Thursday, February 25, Dreyfus put his signature under AB 70, turning it into Chapter 112, Wisconsin session laws. Wisconsin was now the first state in the United States to protect lesbians and gay men from discrimination. In an unusual move, he issued an explanatory statement with his reasons for signing it.³⁸² In this statement, Dreyfus cites the broad support of religious leaders for the bill, as well as the local gay rights ordinances in Madison, Milwaukee, and Dane County. “The problems associated with them, which many predicted, just have not arisen,” he points out. His main argument, however, is one of privacy. “I have decided to sign this bill for one basic reason,” he writes, “to protect one's right to privacy.”

As one who believes in the fundamental Republican principle that government should have a very restricted involvement in people's private and personal lives, I feel strongly about governmentally sanctioned inquiry into an individual's thoughts, beliefs and feelings. Discrimination on sexual preference, if allowed, clearly must allow inquiries into one's private life that go beyond reasonable inquiry and in fact invade one's privacy.³⁸³

He stresses that the exclusion of affirmative action programs was a prerequisite for him to sign the bill, and that this restriction of discrimination does not equal approval or encouragement of homosexuality any more than the restriction of discrimination for other reasons. Dreyfus' statement ends with a comment on the fears of homosexual teachers abusing or recruiting their students. “I feel very strongly that one's sexual preferences, either homosexual or heterosexual, have absolutely no place for expression in our classrooms generally [...],” he writes.

³⁷⁸ Ibid.

³⁷⁹ Ibid.

³⁸⁰ Plaisted, “Church groups assail.”

³⁸¹ Ibid.

³⁸² According to an opposing editorial in the *Northwestern*, a Wisconsin newspaper, it was the first time that Dreyfus sent the state's media the text of the message he read on a bill's signing. *The Northwestern*. “Legislating 'em moral.” February 27-28, 1982.

³⁸³ Dreyfus, Lee S. Statement upon signing the anti-discrimination bill AB 70, n.d. [February 25, 1982], David Clarenbach Papers, Box 5, Folder 16, Wisconsin Historical Society Archives.

3.7 After passage: The construction of a myth

The news of the passage of the nation's first gay rights law made the headlines in the gay press across the country. Clarenbach had exceptionally good relations both with the local daily press as well as with the large gay newspapers and magazines. “David loved press,” recounts Dan Curd.

He had a really good rapport with every local media person. When media people in the capital didn't have a story for the day, they'd come and find one from David. He'd send them off to find something. So consequently, they would do favors for him. He was really friendly with those people. And even when it was six in the morning, you could call. [...] The press came before anybody.³⁸⁴

He was very good at communicating with the gay press, but most of it wasn't local. [...] Who he really was in touch with were people at [...] *The Advocate*. [...] Randy Shilts, who worked for the *San Francisco Examiner*, I used to speak to him every couple weeks or so. Because he was amazed.³⁸⁵

One of the photographs of the bill signing ceremony, sent out to the press by David Clarenbach's office, shows the governor at his desk, putting his signature on the document.³⁸⁶ A semi-circle of microphones records his words of explanation. Overlooking him is Clarenbach, who is standing slightly to the right, between the governor and the Wisconsin state flag. The picture is shot from a left angle, and Dreyfus and Clarenbach build the dominant vertical, filling out the center of the upright format. The photograph suggests: here are the two men responsible for this law. The grey-haired Dreyfus, the state's patriarch, is sitting down, while the young Clarenbach, his son in age, but the “father of the law” – as he he was dubbed in the press – witnesses the birth of his love child. Under close examination, however, a hand becomes visible on the left margin of the photograph, disturbing the picture's harmony. The hand rests on a chair to the left of the governor, suggesting that someone was standing to Dreyfus' left, too, that the governor was framed by at least two people. That something – or rather someone – is amiss is even more evident in another photograph. A medium close-up shot of the signing, reprinted in *The Advocate* and the Canadian *Body Politic*, shows the right body half of someone standing slightly left to the governor, the person's face inconceivable.³⁸⁷ “When the governor asked David to come sign the bill, Leon [Rouse] went up there, too,” remembers Dan Curd. The bill signing had been kept under wraps; Curd and Clarenbach learned about it just before the ceremony was going to take place

³⁸⁴ Curd interview.

³⁸⁵ Ibid.

³⁸⁶ See image one in the appendix.

³⁸⁷ See image two in the appendix.

– fifteen minutes in advance according to Curd, an hour according to Clarenbach.³⁸⁸ It was mysterious to them how Rouse, who was living in Milwaukee, could arrive at the signing on time. Curd speculates that Dismas Becker may have known about the signing in advance, and notified Rouse of it. Clarenbach regarded Rouse as a troublemaker, as a constant, uncontrollable risk, and was not happy about his presence at the ceremony. What he could control, though, thanks to his very amiable relationship to the gay press around the country, was how the story of the nation's first state-wide gay rights law would be told. “In the pictures that we distributed afterwards, he [Leon] was cropped out,” relates Dan Curd.³⁸⁹ As the press coverage from gay magazines across the country demonstrates, this time-tested technique of giving an irritating comrade over to historical oblivion worked very well. When lesbians and gay men across the United States celebrated the passage of the first state-wide gay rights law, many of them had never heard the name of Leon Rouse. His work was mentioned in the Minneapolis gay newspaper *Equal Time*, and *Chicago GayLife* gave him substantial credit. But in the celebratory articles in the Californian *Lambda News*, the *New York Native*, the *Advocate* and the Canadian *Body Politic*, Rouse's name was amiss.³⁹⁰ In an interview with the *Native*, Clarenbach stressed that it took multiple years to lay the groundwork for the votes for the bill, and cautioned against prematurely bringing gay rights up in the legislatures. He also warned against relying “on the activism and commitment of the gay community.” “There is still a tendency on the part of the gay community to be nonpolitical and uninvolved,” he claimed.³⁹¹ The *Advocate* portrait of Clarenbach was titled “The Inside Track.” The article offered a contradictory take on the lawmaker and the gay community. “It certainly would be a mistake to consider my involvement the sole reason the bill was passed,” Clarenbach was cited.³⁹² Nevertheless, he reiterated his belief that an insider was crucial for the success of gay rights legislation:

Relying only on gay rights activists on the outside is a very bad mistake. You need an insider to do some of the dirty work that has to be done, to engage his colleagues in rational debate. And that insider has to be respected and be willing to use some of his chips to get the bill passed.³⁹³

³⁸⁸ Curd, Clarenbach interviews.

³⁸⁹ Curd interview.

³⁹⁰ Stults, Eric. “Churches help pass rights law in Wisconsin.” *Equal Times*, March 3, 1982; Kulieke, “On, Wisconsin”; *Lambda News*. “Wisconsin Governor signs gay rights bill.” March 5, 1982; Stroebel, Carol. “Nuns in the Gallery: The Church, David Clarenbach, and Wisconsin's Gay Rights Bill.” *New York Native*, March 15, 1982; *The Advocate*. “Wisconsin first state to pass gay rights law.” April 1, 1982; Anderson, Scott F. “The inside track: Wisconsin Assemblyman David Clarenbach.” *The Advocate*, July 22, 1982; *Body Politic*. “Wisconsin passes gay rights bill.” April 1982.

³⁹¹ Stroebel, “Nuns.”

³⁹² Anderson, “The inside track.”

³⁹³ *Ibid.*

The magazines printed Clarenbach's insider formula uncritically, and Clarenbach made no effort to point the journalists to the pushy outsider whose work had been so crucial. We can only speculate how the story of Wisconsin's pioneering law would have been told, had Clarenbach not actively kept Rouse out of the media's spotlight. It seems certain, though, that scholars would not have arrived at the verdict that Clarenbach “almost single-handedly got the bill passed.”³⁹⁴

David Clarenbach disputes this verdict himself. In my interviews with him, he articulated his understanding that the passage of the gay rights bill was possible through the efforts of many, many people. He also acknowledged that different approaches were debated within the community on how to accomplish change.

There were a lot of people involved in the gay and lesbian civil rights movement in Wisconsin. It took the efforts of many individuals and organizations to get the gay rights bill passed, including people from different political partisan viewpoints, from the religious community, people from the gay and lesbian movement who may have wanted to take a more confrontational approach. There was a lot of debate within[the] community how best to accomplish these goals – confrontational direct action tactics, civil disobedience etc. versus behind-closed-doors-tactics, and manipulating the legislative process quietly behind the scenes, that it was important to “have a seat at the table”, and have people like myself in public office. I think that a combination of strategies brought success.

Interviewer: I'm assuming that you were in the second camp?

Clarenbach: Yes. Because laws unto themselves do not change public view[s] towards our community, but they are a vehicle from which social change can take place. I don't think one can occur without the other.³⁹⁵

After studying the history of Wisconsin's gay rights law in detail, I tend to agree with Clarenbach that his “seat at the table” was a necessary condition for success. It took someone inside the political process, well acquainted with the written and unwritten rules of lawmaking, to get the necessary votes together in the legislature. Given the precarious status of gay rights in the age of Anita Bryant and the Moral Majority, it took someone who was in politics for his idealism, who was not afraid to be identified with the lesbian and gay community, and who was ready to make the gay rights bill his top priority. That's who David Clarenbach was. He had the skills, but he also had the will.³⁹⁶

³⁹⁴ Turner, “The gay rights state,” 94.

³⁹⁵ Clarenbach interview, July 9, 2010.

³⁹⁶ Dan Curd said that Clarenbach postponed some of his other radical projects to get the gay rights bill passed. “[H]e had some of these crazy bills. And he really put a lot of them in the back burner, because there were things that he wanted to get done, and he knew unless he did do that, he wouldn't get them done.” Curd interview, July 23, 2010.

However, Clarenbach's control of the legislative process came at the cost of cutting out the community at times. Barbara Lightner's complaint that when the gay rights bill was finally debated and voted on in the legislature in 1981/82, "he was shutting me out, he was shutting other people definitely out as well," was confirmed by Dan Curd.³⁹⁷

[The gay organizations, e.g. *The United*] really were not involved, and that was part of the plan. [...] There were a lot of people at the time, especially people in Milwaukee, I think, who felt they were shut out of the process. And they were. Because we didn't want the TV camera to be focused on them and Reverend Pritchard yelling back and forth at each other. Which had been what had gone on before. And quite honestly, until the bill was enacted, other than write their legislator, which we encouraged people to do, [grassroots organizations were not involved (author's addition.)] David was very much worried about staying in control. And I think a lot of people at the end interpreted that he didn't want to share success with somebody else. But it wasn't really that. It's just that's his personality.³⁹⁸

If we call to mind the confrontational *zaps* of the GAA, Clarenbach's extreme concern for control is understandable. Probably, he was also aware of the damage done to Minnesota's gay rights bill in 1975 by radical gay liberationists. Chances had been good in Minnesota's state legislature to pass a state gay rights bill that year, but activists disrupted the incremental strategy put forward by gay insiders by demanding the inclusion of gender identity in the bill, as well as marriage and adoption rights for lesbian and gay people. Their radical demands and their crossdressing were blamed for the bill's death.³⁹⁹ Clarenbach's caution was further proven legitimate when activists tried to distribute sexually explicit magazines to legislators during the senate hearing for AB 70.⁴⁰⁰

What is not understandable, though, is why Clarenbach continued to shut activists out after the bill's passage. Why did he cut out Leon Rouse from the bill-signing photograph, and thus from public recognition, after he did not pose any danger anymore? And was it fair to belittle gay activism so much in the press when he knew that this activism, how converse it could be at times, had been vital for his success? Wasn't his warning that "[r]elying only on gay rights activists on the outside is a very bad mistake" just as true if you exchanged "outside" for "inside"?⁴⁰¹

³⁹⁷ Lightner interview, July 14, 2010.

³⁹⁸ Curd interview, July 23, 2010.

³⁹⁹ "We wanted the bill to include affectional preference in gender identity. It was meant to be broad enough to include a sissy boy, a butch girl, a cross dresser, or a transsexual," one activist stated. When this effort failed, he chained himself to a railing at the state house and began to fast in protest, while other men appeared for the debate in drag and shocked legislators by using the ladies' room. Clendinen/Nagourney, *Out for Good*, 235-238.

⁴⁰⁰ See 3.6.3.

⁴⁰¹ See 3.6.6.

3.8 1983: After fifteen years, consenting adults passes

With the anti-discrimination bill passed, an enthusiastic Clarenbach announced that he would take up the consenting adults bill again in the next session.⁴⁰² Many observers had noted the paradox that while lesbians and gays were now protected from discrimination in Wisconsin, the sex acts that created their category of protection were still illegal. That laws prohibiting everything but marital intercourse were not only still on the books, but were also haphazardly, though not infrequently enforced, with the young and the poor disproportionately targeted, seemed scandalous. In March 1983, the consenting adults bill AB 250 was introduced in the assembly by the committee on Criminal Justice and Public Safety.⁴⁰³ The public hearing on March 31 was attended by the usual suspects – representatives of the Moral Majority as well as supportive members of the mainline churches. Support also came from the Madison police, the Eau Claire district attorney, and the League of Women Voters.⁴⁰⁴ Protest was much quieter than it used to be, though, David Clarenbach noted. “In past sessions, the galleries at these hearings were filled with bible-thumping preachers. The furor has subsided. While it is still controversial, it doesn't seem to be as sensitive a political issue as it used to be.”⁴⁰⁵ The Rev. Pritchard was a fervent foe again. He warned that passage of the bill would lead to increased homosexual activity similar to that in San Francisco, and he pointed to the just recently diagnosed AIDS as an additional danger.⁴⁰⁶ “I can't understand how the Assembly or the Senate could rush through a bill like this without giving it further thought in the light of new evidence that has surfaced about lethal diseases linked to the homosexual lifestyle and sexual promiscuity,” he was cited in the *Wisconsin State Journal*.⁴⁰⁷

Opponents of the bill in the assembly introduced a multitude of amendments to water the bill down, but none of them were adopted. David Clarenbach complained that the amendments either just duplicated existing laws or made “frivolous distinctions in activities that [were]

⁴⁰² *Milwaukee Journal*. “Sex laws are next target: Clarenbach.” February 26, 1982.

⁴⁰³ Wisconsin Legislature. “Bulletin of the Proceedings of the Wisconsin legislature: Assembly.” 1983. 81-82.

⁴⁰⁴ Pommer, Matt. “Adult sex measure draws crossfire.” *The Capital Times*, April 1, 1983, 20.

⁴⁰⁵ *Wisconsin State Journal*. “Clarenbach, Prosser at odds over cohabitation measure.” April 2, 1983.

⁴⁰⁶ Pommer, “Adult sex”; Srb, Arthur L. “Sexual consent bill target of latest Pritchard crusade.” *The Capital Times*, May 14, 1983, 17. The first notice of a new illness among gay men appeared in the federal Center for Disease Control's *Morbidity and Mortality Weekly Report* in June 1981. In 1982, it was given the name *Acquired Immunodeficiency Syndrome* (AIDS). The first national news publication to put AIDS on the front page was Newsweek in April 1983. The illness was thus just entering the national debate. “Pneumocystis Pneumonia – Los Angeles,” in: *Morbidity and Mortality Weekly Report* 30 (21): 250-252 (June 5, 1981). Cited in Feldman, Douglas A. / Miller, Julia Wang (Hgg.), *The AIDS Crisis. A Documentary History*, Westport, CT 1998, 16. The report is available online at http://news.bbc.co.uk/2/shared/bsp/hi/pdfs/05_06_06_aids.pdf (accessed November 5, 2010); Kinsella, James. *Covering the plague: AIDS and the American media*. New Brunswick: Rutgers University Press, 1989, 94-96.

⁴⁰⁷ Rix, Paul A. “Senate passes sex bill.” *Wisconsin State Journal*, May 4, 1983.

already illegal.”⁴⁰⁸ Indeed, some amendments seemed motivated by a vivid imagination rather than serious concern. One legislator sought to restrict sex in vans and campers to those vehicles parked at recognized campgrounds, fearing that otherwise, “tailgate parties at Milwaukee Brewers [baseball] games could become indecent.”⁴⁰⁹ On April 21, the house passed the bill on a ten-vote majority. In the senate, one amendment was adopted. The amendment reinstated the offense of having consensual sex with a sixteen-to-eighteen-year-old as a felony. The bill had sought to classify such a trespass as a misdemeanor.⁴¹⁰ So amended, the consenting adults bill passed the senate on May 3.⁴¹¹ Two days later, the assembly concurred in the amended version, and the governor, Democrat Anthony Earl, who had succeeded Dreyfus, signed the bill.⁴¹²

David Clarenbach estimated that the “near unanimous endorsement by mainstream religious leaders of Wisconsin” had made the difference to the preceding sessions.⁴¹³ The religious standpoint was less clear than it had been for the anti-discrimination bill, though. While support was broad, encompassing ministers from the United Methodist Church, the Episcopal Church, and the United Church of Christ, opposition could be found in the very same denominations. Many clergymen and -women wrote Clarenbach that they supported consenting adults legislation, but were unable to take a public stand. Some religious leaders that had been part of the coalition for the anti-discrimination bill were unable or unwilling to back AB 250.⁴¹⁴ Most notably, the president of the American Lutheran Church, Southern Wisconsin District, and Roman Catholic archbishop Rembert Weakland, declined to take a stand for the bill.⁴¹⁵

⁴⁰⁸ Eggleston, Richard. “Bill to legalize more adult sex acts advances.” *Wisconsin State Journal*, April 20, 1983.

⁴⁰⁹ Ibid.

⁴¹⁰ Rix, „Senate.“

⁴¹¹ Wisconsin legislature. “Proceedings,” 1983.

⁴¹² Ibid.

⁴¹³ Fanlund, Paul. “Earl signs consenting sex act bill.” *Wisconsin State Journal*, May 6, 1983.

⁴¹⁴ Supportive denominations from Clarenbach, David. Issues & Comment. The Consenting Adults Bill, n.d. [1982/83], David Clarenbach Papers, Box 2, Folder 24, Wisconsin Historical Society Archives.

⁴¹⁵ Schumacher, A. C., President, ALC Southern Wisconsin District. Letter about Consenting Adults Bill to David Clarenbach, January 26, 1983, David Clarenbach Papers, Box 2, Folder 23; Weakland, Rembert G. Archbishop of Milwaukee. Letter to David Clarenbach concerning consenting adults legislation, March 2, 1981, David Clarenbach Papers, Box 3, Folder 8, Wisconsin Historical Society Archives.

4. Conclusion: Grassroots work *and* a place at the table

The examination of oral history interviews and the close study of bill drafting records, archival documents, and newspaper articles deepens and complicates the story of Wisconsin's gay rights law. Some of the conclusions of earlier work on the subject have been confirmed, but others do not stand up to the evidence of the sources that I have examined. What has been confirmed is the lasting influence of Wisconsin Progressivism. The Progressive tradition was still alive in the Republican party, as the New Republican Conference, the group of socially liberal Republicans, demonstrates. In social issues, Governor Dreyfus, but also significant parts of the state's GOP, remained independent of national party politics in the 1970s and early 1980s. The Religious Right had no political weight in the party in Wisconsin at the time.

David Clarenbach's framing of gay rights as civil rights has also been offered as a reason for his success. Clarenbach himself has summarized his framing as “discrimination is wrong” and has contrasted it with the more assertive “gay is good” approach coined by Franklin Kameny and championed by many gay liberationists. That Clarenbach's argument fell on receptive ears is evidenced by the statements of support for the gay rights bill that many Wisconsin churches issued. Often backed by resolutions of the national bodies of their churches, the ministers and the archbishop stated their support for the human and civil rights of gay people. At the same time, many of them added that they, or their church, did not condone the practice of homosexuality. Thus, the power of the rhetoric of civil rights was limited. It worked for the gay rights law, but it failed for the consenting adults law, when the matter was not discrimination, but sex.

What this thesis clearly refutes is the claim that David Clarenbach was the one man who “single-handedly got the bill passed.” At the very least, the praise ought to be awarded equally to Leon Rouse. The bill that was passed originated from his draft. More importantly, his tireless organizing of clergy drew together a religious coalition of such grand scale that the bible-based opposition to gay rights had no chance to present itself as a religious authority at all. Still, I believe, even turning the one-man story into a two-men story would not accurately convey the full picture. At least at two instances in this story, not one or two, but hundreds of people contributed substantially to the bill's passage. Whether it was scores or hundreds of ministers, nuns and priests who supported the bill, testifying or just showing up at public hearings and calling their representatives, without their commitment, some of the votes might not have been won. And when the Christian radio stations were spurring their listeners to inundate the governor with veto messages, who knows if Dreyfus, despite his independence,

might not have given in to such voter anger, had not hundreds of others countered the calls with endorsements of the gay rights bill. These are two examples of grassroots activism that directly contributed to the bill's success. A less direct, but not less important grassroots contribution was, in my opinion, the organization of the lesbian and gay communities in Madison in 1978 to stop Dillabaugh's and Pritchard's repeal effort. We do not know how the political climate might have changed if Madison's gay rights ordinance had been repealed. It is well possible that it would have demoralized the lesbian and gay community, and it certainly would have cast gay rights as a controversial and politically dangerous issue.

Let me briefly sum up the conclusions of my study. The passage of Wisconsin's pioneering gay rights law in 1981/82 was the result of more than a decade of work for lesbian and gay rights, but also for sexual privacy for every adult regardless of sexual orientation. My research has demonstrated that at least three individuals must be credited as key actors in the bill's promotion: Lloyd Barbee, David Clarenbach, and Leon Rouse. Their work was backed by a lesbian and gay community centered in Madison and Milwaukee, whose political organization proved vital to mobilize mass support for the bill. A Republican party with a strong faction of social moderates paved the way to bipartisan cooperation in the legislature. Legislative success was engineered by David Clarenbach, a skilled legislator who made the bill his priority, who was well connected with other legislators in important positions, and who traded his vote to win the votes necessary for passage. Another crucial ingredient for success was the almost universal religious support that the bill enjoyed. Leon Rouse, a young gay activist from Milwaukee, was chiefly responsible for organizing this support. In a Catholic state like Wisconsin, it was of special significance to have the endorsement of Milwaukee archbishop Rembert Weakland, whose commitment may have been grounded in his belief in a socially active church as well as his own homosexuality.

A thorough account of Wisconsin's LGBT community is needed to shed more light onto the different strands of political activism that the movement followed in the state, and to illuminate the many ways in which lesbians and gay men fought for liberation. I have only scratched the surface of the community's history in this thesis, and have not been able to discuss many of the grassroots initiatives that existed at the time. Such a community history should be based on the oral histories collected by the UW-Madison and the Milwaukee GLBT History Project, as well as additional oral history interviews with activists of Milwaukee's LGBT community. Certainly, Leon Rouse's own account would revise and deepen our understanding of his controversial persona. Interviews with other involved legislators might be another important source for a more complete legislative history. The many publications of

the lesbian and gay communities in the 1970s and early 1980s offer another rich source of information that I have not been able to consider in its breadth.

Wisconsin offers many fascinating takes on LGBT history.⁴¹⁶ Recently, the state's reputation as a friendly place for LGBT people suffered a blow when a majority of Wisconsin voters endorsed an anti-gay marriage amendment to the state's constitution in 2006. In 2010, two diverging developments appear at work in the state. Though support for LGBT equality is increasing among young Wisconsinites, political progress for the movement's causes seems stalled after the Republican landslide of the 2010 elections. In July 2010, the Madison biweekly *Isthmus* titled "Gay rights go mainstream here," arguing that gay rights had lost its controversial edge among young voters in the state. Most candidates in races for public office were still very cautious about gay rights though, with Republicans opposing all recognition of lesbian and gay relationships, even if they no longer employed a moral rhetoric.⁴¹⁷ In the elections on November 2, 2010, GOP candidates emerged as winners. The state elected a Republican governor, Republican majorities in both state houses, and a Republican senator in place of famously independent Democrat Russ Feingold. It is not only the political majorities that have turned around in comparison to 1981/82, though; it is also the political climate. Wisconsin's Republican party no longer has a New Republican Conference – it now has Tea Party candidates. The state's newly elected Republican lieutenant governor personifies this change. The "Wisconsin-proud conservative woman," as she refers to herself on her campaign web page, makes much of her belief in Jesus, and has compared gay marriage to marrying dogs or inanimate objects.⁴¹⁸ In the face of such opposition, disappointed Wisconsinites can at the very least find solace and inspiration in the extraordinary accomplishment that the state's lesbian and gay community brought about in 1981/82.

⁴¹⁶ Another topic to explore could be the extraordinary integration of lesbians and gays in Madison's politics. For instance, after he quit state politics, David Clarenbach's assembly seat was occupied by out lesbian Tammy Baldwin, who was succeeded by Mark Pocan, an out gay Democrat upon her election to Congress in 1996 – as the nation's first out lesbian representative in Congress. This unusual continuity was pointed out to me by Dan Curd. Curd interview, July 23, 2010

⁴¹⁷ Craver, Jack. "Gay rights go mainstream here: Politicians of both parties are retooling positions in response to changing attitudes." *Isthmus*, July 9, 2010.

⁴¹⁸ *Isthmus*. "Sifting through the results of Election 2010 in Wisconsin: A look at the outcomes in key races and what lies ahead." November 3, 2010. <http://www.thedailypage.com/daily/article.php?article=31112> (accessed November 9, 2010); "Rebecca Kleefisch - A Wisconsin-Proud Conservative Woman." <http://www.rebeccaforreal.com/bio/> (accessed November 11, 2010).; *Isthmus*. "Week in review: Kleefisch apologizes for gay marriage remarks, Republicans take over in Wisconsin, Dane County medical marijuana vote passes." November 5, 2010. <http://www.thedailypage.com/isthmus/article.php?article=31122> (accessed November 9, 2010).

5. Appendix

List of abbreviations

| | |
|--------|---|
| AB | Assembly Bill |
| ACLU | American Civil Liberties Union |
| AFSCME | American Federation of State, County, and Municipal Employees |
| AIDS | Acquired Immunodeficiency Syndrome |
| APA | American Psychiatric Association |
| CCOC | Citizens Concerned for Our Community |
| CRH | Council on Religion and the Homosexual |
| DOB | Daughters of Bilitis |
| EOC | Equal Opportunities Commission |
| ERA | Equal Rights Amendment |
| GAA | Gay Activists Alliance |
| GLF | Gay Liberation Front |
| GLO | Gay Liberation Organization |
| GOP | Grand Old Party (synonym for the Republican party) |
| GPU | Gay Peoples Union |
| GRNL | Gay Rights National Lobby |
| LGBT | Lesbian, Gay, Bisexual, and Transgender |
| LRB | Legislative Reference Bureau |
| MAGIC | Madison Area Gay Interim Committee |
| MAHE | Madison Alliance for Homosexual Equality |
| MPD | Milwaukee Police Department |
| MUSIC | Milwaukee United School Integration Committee |
| NAACP | National Association for the Advancement of Colored People |
| NGTF | National Gay Task Force |
| NOW | National Organization for Women |
| PULL | People Using Legislation Legally |
| SB | Senate Bill |
| STD | Sexually Transmitted Diseases |
| UW | University of Wisconsin |
| WASP | Wisconsin Alliance for Sexual Privacy |
| WCLU | Wisconsin Civil Liberties Union |
| WHS | Wisconsin Historical Society |
| YWCA | Young Women's Christian Association |

Photographs of the bill signing



Image 1: Governor Dreyfus signs the gay rights bill as David Clarenbach looks on. This photo was printed in Gay Madison.



HISTORIC SIGNING—Wisconsin Gov. Lee S. Dreyfus puts his signature on the nation's first statewide gay rights law. The measure outlaws antigay discrimination in all areas covered by state antibias statutes. Looking on is Wisconsin state Sen. David Clarenbach (D-Madison), who sponsored the bill (see Issue 339 for details).

Image 2: This photo was printed in The Advocate, the Body Politic, and the Chicago GayLife.

Oral history interviews conducted by the author
CD with recordings and transcripts

List of illustrations and picture credits

Image 1: Courtesy of David Clarenbach. Also printed in “Lesbian/Gay history made!,” *Gay Madison*, March 1982. Clipping in David Clarenbach's personal collection of press coverage.

Image 2: Printed in the *Advocate*, April 29, 1982; in “Wisconsin passes gay rights bill,” *Body Politic*, April 1982, “Wis. Governor signs gay rights bill,” *Chicago GayLife*, March 5, 1982. All clippings in David Clarenbach's personal collection of press coverage.

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A note on sources: My primary sources include oral history interviews, archival records, and newspaper articles. Though many of the newspaper articles that I have used come from archival collections, I have listed them separately because they are available outside of the archives, too. Excepted are newspaper clippings that could not be clearly identified – these are listed as archival sources. Bill drafting records are also included in the archival sources.

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Acknowledgments

I'd like to thank David Clarenbach, Dan Curd, Barbara Lightner, and Dick Wagner for sharing their memories with me. Barbara and David kindly offered newspaper clippings from their collections, as well as other source material.

Thanks also to my readers: Eva Bischoff, Jesse, Johannes, Moritz, Michael, and Netti.

Finally, thanks to my family and friends for love, support, and encouragement.