

“Enough is Enough”: The Right to Privacy Committee and Bathhouse Raids in Toronto, 1978-83

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Abstract

On Thursday February 5th, 1981, 200 agents from the Metropolitan Toronto Police raided four of the city's gay bathhouses. Codenamed "Operation Soap," 286 men were charged with the criminal offense of being "found in a common bawdy house," 20 men faced the more serious charge of "keeping a common bawdy house." Operation Soap was known for its scale, but also for its destruction and brutality. This dissertation focusses on the history of the Right to Privacy Committee (RTPC), a group formed in 1978 in response to Toronto's first bathhouse raid. This study utilizes oral history from 25 interviews, the gay liberation news journal *The Body Politic*, as well as archival material from the Canadian Lesbian and Gay Archives.

The bathhouse raids are situated within the broader history of queer consciousness, resistance, and political organizing, both in Toronto and across North America. The 1969 amendments to the Canadian Criminal Code partially decriminalized certain sexual acts, provided they took place under a strict set of circumstances: namely, that only two people could be present. If more than two people were present, the space was deemed by police to be a public place and subject to the bawdy house law. Building on the work of queer theorists, this project argues that the ideal of private sexual monogamy, or mononormativity, was the primary point of conflict between law enforcement discourse of morality and the sexual practices performed within a bathhouse.

This is a history of the RTPC and the various tactics they employed in resisting the police. The RTPC became best known for its various political actions, coordinating the successful defence of 90% of the men charged, and for raising \$224,000 to subsidize the cost of their legal fees. However, the RTPC reflected some of the divisions and complexity of an increasingly diverse queer political community, including gay business owners, Marxists, feminists, and people of colour. The central theme of this project is that the RTPC was not a singular organization, it consisted of various resisters of social control who were influenced by their own identities and experiences.

Dedication

For Dennis Findlay, and the hundreds of other queers who mobilized in resistance to bath raids by joining the Right to Privacy Committee.

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Abbreviations

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| ACSW | Advisory Council on the Status of Women |
| ADGLQ | Association pour les droits des gais et lesbiennes du Québec |
| ADGQ | Association pour les droits des gais du Québec |
| AGE | Association of Gay Electors |
| CASH | Committee Against Street Harassment |
| CCB | Citizens Complaint Bureau |
| CCLA | Canadian Civil Liberties Association |
| CDJD | Committee to Defend John Damien |
| CGRO | Coalition for Gay Rights in Ontario |
| CHAT | Community Homophile Association of Toronto |
| CHAR | Comité homosexuel anti-repression |
| CIRPA | Citizens Independent Review of Police Action |
| GATE | Gay Alliance Toward Equality |
| GCW | Gay Court Watch |
| GLARE | Gays and Lesbians Against the Right Everywhere |
| GLU | Gay Liberation Union |
| GSP | Gay Street Patrol |
| JCA | Jamaican Canadians Association |
| LAH | League Against Homosexuals |
| LAR | Lesbians Against the Right |
| LCC | Legal Coordinating Committee (RTPC) |
| LDF | Legal Defense and Education Fund |
| LLBO | Liquor Licence Board of Ontario |
| LOOT | Lesbian Organization of Toronto |
| NAACP | National Association for the Advancement of Coloured People |
| NAC | National Action Committee on the Status of Women |
| NAWL | National Association of Women and the Law |
| NDP | New Democratic Party |
| NGRC | National Gay Rights Coalition |
| OPC | Ontario Police Commission |
| PAC | Public Action Committee (RTPC) |
| RACAR | Riverdale Action Committee Against Racism |
| RTPC | Right to Privacy Committee |
| RTPF | Right to Privacy Foundation |
| SCJLA | Standing Committee for Justice and Legal Affairs |
| TGA | Toronto Gay Action |
| UTHA | University of Toronto Homophile Association |
| WISH | We're In Support of Homosexuals |

Introduction: Endless Night

The smell of fear is in the air
 Stagnant and oppressive
 You're alive and potent
 You need to express it
 How many shattered lives
 No words can pacify
 No hands can heal the pain
 of having to hide it
 Outrage burns in your eyes
 Your body's urges can't be denied
 Forced to defile your sexuality
 There's no escape from this modern Third Reich
 There's no escape from this endless night.¹

Lesbian rock artist Carole Pope's song, *Endless Night*, was the anthem of community rage in the wake of the Toronto bathhouse raids. Her band, Rough Trade, performed in benefit concerts to raise money for the men charged. Her song was about a dark night of oppression under a new Third Reich of moral sexual regulation. For Ron, Duncan, Arthur, and Tony, most of Thursday February 5, 1981 was just another ordinary night at the baths. Ron lived in the city and enjoyed attending the baths on frequent occasions. He was sitting by himself in his room at the Romans Bathhouse, enjoying a moment of peace.² Duncan's wife was aware of his sexuality before they were married, and love and partnership kept them together. The baths represented Duncan's space of sexual expression. At the moment it happened, he was sitting in his room at the Barracks bathhouse, catching up with a friend and neighbour.³ Arthur was also married, and he drove in from Scarborough for his monthly 'getaway' at the Club Baths. After having met someone new, he was enjoying a moment alone, basking in the warmth of a hot tub.⁴ Tony had just finished his shift working as a supervisor at the Richmond Street

¹ Rough Trade, "Endless Night," *Shaking the Foundations* [album], 1982. With appreciation to Carole Pope for providing a copy of the lyrics.

² Interview with Ron Rosenes, June 30, 2016.

³ Interview with Duncan, April 20, 2015.

⁴ Interview with Arthur, February 16, 2016.

Health Emporium, a bathhouse that was recently renovated and had more than 100 rooms. He was sitting with a co-worker in the television lounge waiting for his boyfriend to arrive to take him out to a new gay bar.⁵

These men existed in a world of mandatory heterosexuality. For the men who travelled into the city from the suburbs and beyond, the bathhouses were the one true place where they could find sexual expression. In the cases of married men attending bathhouses, many were like Duncan and their wives knew about the arrangement. Some men's wives, including Arthur's, did not. Outside the bathhouse, the world was packed into neatly arranged boxes. For the married men of Mississauga, Brampton, Markham, Scarborough and the other cities around Toronto, the bathhouse provided, for a brief time (and a modest locker/room fee), a way to break out of the box. Whatever brought them there, whatever circumstance, this was an escape.

Some went to the baths as openly gay regulars. Political and cultural changes from the 1960s inspired them to explore their sexuality beyond the confines of established norms, and they lived through the vast community and business development of the Yonge Street Strip, which provided many new options for sexual expression. By the 1970s, there were several gay bathhouses operating in the city, which mirrored the increasingly visible queer commercial spaces, including bars, restaurants, and cafes. In Toronto, the bathhouses were dispersed throughout the downtown core, but the queer commercial district burgeoned along Yonge Street north of College. Occasionally, there were reports of "hustlers" (a term referring to sex workers who were young men) who spent time in the baths, but bathhouse owners and attendants, especially those working for Tony, patrolled for these visitors and actively discouraged them. For the regular customers, the bathhouse was their playground, not only for sex, but also for companionship, community, and relaxation. Among the regulars was Sky Gilbert, a

⁵ Interview with Tony Fay, March 5, 2016.

writer and producer who founded Buddies in Bad Times Theatre. In his memoir, Gilbert wrote of his experience:

Bathhouses became such a habit that even today I have to control the urge to drop in every day. I feel happy there, even if I'm not getting laid. It's a totally gay environment. And totally sexual. It's a world where perverts hang out – by perverts I mean all those who are openly and proudly fascinated by sex. And bathhouse culture is a real society.⁶

Many knew the attendants and other regulars, often by name, and they enjoyed this small, humble sexual oasis within the heart of Toronto the Good.

The 'endless night' for Ron, Duncan, Arthur, Tony, and hundreds of other men started at around 11:00pm. They were jolted from the warmth and safety provided by the saunas, whirlpools, and steam rooms to the crashing sounds of 200 raiding Metropolitan Toronto Police officers. The jolt was not solely from the arrests; it was also from the sound of destruction. Tony pleaded with the agents to take the master keys so that they would not have to break through doors and lockers, but he was told to "sit down, shut up." Tony was charged with "keeping a common bawdy house," Ron, Arthur, and Duncan, adorned only in towels, were charged with "being found in a common bawdy house." The police agents called the six-month investigation and mass raid "Operation Soap." As Duncan was forced to wait in the shower room at the Barracks, one of the officers made a joke about how he wished the shower room were a Nazi concentration camp gas chamber.⁷ The modern Third Reich was here.

A New Hope: The Right to Privacy Committee

For the more than 300 men arrested at four gay bathhouses in Toronto on the night of February 5, 1981, there was hope. A volunteer group of activists, known as the Right to Privacy Committee (RTPC), was immediately ready to respond to the crisis. In conjunction with activists from other gay and lesbian groups from around the City of Toronto, they organized a series of protests, including a massive,

⁶ Sky Gilbert, *Ejaculations from the Charm Factory: A Memoir*, Toronto: ECW Press, 2000: 33.

⁷ Interview with Duncan, April 20, 2015.

3,000-person demonstration that marched furiously through the city streets on the night following the raid. They launched a fundraising campaign aimed directly at members of the community and their allies. These funds were used to hire a group of defense lawyers, many of whom were young radicals from the Law Union of Ontario. In the weeks and months after the arrests, it became apparent to the “found-ins” that they had an option: they could fight. A vast majority of the men who were charged that night believed that their arrest was unjust. Not only were they paired with lawyers, but those who were charged witnessed a dramatic reversal in social and public attitudes toward the gay community. The community fought back, and that fight became a turning point for sexual politics in the city of Toronto. It reverberated across the nation, as Canada’s legal-moral code was put to the test in an era of individual rights.

The coordinated legal defense strategy, coupled with a sexual liberationist political agenda, set this group apart from the other gay and lesbian advocacy groups of the time. The RTPC was ready to respond at the climax of the bath raids in Operation Soap. The overwhelming success in confronting the state in the streets and in the courts meant that the last bathhouse raid occurred on April 20, 1983, and ended in embarrassment for police and prosecutors alike.⁸ The RTPC will be remembered for mobilizing popular protest, raising money, and for the resounding victory in the courts.

There is more to this story than placards, banners, and defense statistics. What follows is a detailed microhistory of the activities of the RTPC. The end of the bath raids was not the result of a voluntary policy change on behalf of the Metropolitan Toronto Police. It was due to years of political, legal and ideological resistance situated in the deeper history of queer political organizing in North America. Inspired by direct action and popular protest of the 1960s, activists confronted their

⁸ By “last bathhouse raid” I am referring to raids against gay bathhouses under the bawdy house law. In September 2000, the Pussy Palace, a lesbian bathhouse night at the Club Baths, was raided by police. This raid was not conducted under the bawdy house law, but rather, under liquor code violations.

oppressors using a variety of tactics. Defending gay men who were having casual group sex in bathhouses was not a popular position, as it violated several social, cultural, and legal norms, even among the emerging visible gay and lesbian political community of 1970s Toronto. The RTPC was a battleground for many of these internal ideological and tactical debates, and they both guided and stymied the external struggle for resistance and change. The RTPC, then, is not merely an organization about bath raids, but is also a useful site for historians analyzing the origins of the institutionalized gay and lesbian movement of the 1970s and 1980s. This analysis is based on four main research questions.

Research Questions

How does this story fit into the broader history of queer consciousness, resistance and political organizing, both in Toronto and across North America? The history of the bathhouse raids must be situated within the emergence of sexual communities in major cities through the twentieth century. According to historian George Chauncey, a vibrant, visible gay community emerged in New York City starting in the late 19th century.⁹ Similarly, Steven Maynard argued that there was “a homosexual subculture in the urban milieu of turn-of-the-century Toronto.”¹⁰ Scholars have noted the growing communities and opportunities for sexual exploration in the forties, fifties, and sixties. For example, according to Allan Bérubé, during World War II, gays and lesbians “took advantage of their freedom to create their own social life on base and to explore the flourishing gay nightlife in nearby cities.”¹¹ The US military used “wartime vice control powers, which had been developed to eliminate heterosexual venereal disease and prostitution, to regulate the gay life as well.”¹² In the Canadian context, Paul Jackson has noted that World War II opened many possibilities for sexual exploration for those serving

⁹ George Chauncey, *Gay New York: Gender, Urban Culture, and the Making of the Gay Male World, 1890-1940*, Basic Books, 1995: 1.

¹⁰ Steven Maynard, “Through a Hole in the Lavatory Wall: Homosexual Subcultures, Police Surveillance, and the Dialectics of Discovery, Toronto, 1890-1930,” *Journal of the History of Sexuality*, 5:2 (Oct. 1994): 208.

¹¹ Allan Bérubé, *Coming Out Under Fire: The History of Gay Men and Women in World War II*, Chapel Hill: The University of North Carolina Press, 1990: (Loc. 2296).

¹² *Ibid*, (Loc. 2298).

in war. Men who were uprooted from their families, with sexual passions and curiosity that otherwise would have been focussed on domestic life, were, during the war, free to explore the urban sexual landscapes of Canadian and British cities.¹³

In the middle of the twentieth century, queer people found ways to explore their sexuality, but this was done through informal social networks and was not publicly constructed as a political community or legitimate minority. In Marc Stein's study of post-war Philadelphia, for example, he wrote that gays and lesbians "frequented dozens of commercial establishments" within the Center City district, but this came with "significant risks of antilesbian and antigay prejudice."¹⁴ By examining the "national security discourse" that emerged in the midst of Cold War tensions of the 1950s and 1960s, Kinsman and Gentile have argued that those suspected of homosexuality after World War II were "constructed as suffering from an unreliable and unstable character, which made us a threat to national security."¹⁵ This time period was also characterized by the earliest gay and lesbian political organizing. John D'Emilio and Estelle Freedman argued that "in Los Angeles, in 1950, a group of gay men associated with the Communist party founded the Mattachine Society," followed by the lesbian counterpart, the Daughters of Bilitis, in 1955.¹⁶ This type of activism, called the homophile movement, characterized the gay and lesbian political front prior to the Stonewall riot in New York City in June 1969. Historian David Carter has asserted that the riots sparked a sexual revolution, but he also situated Stonewall within the

¹³ Paul Jackson, *One of the Boys: Homosexuality in the Military During World War II*, Montreal: McGill-Queen's University Press, 2004: 16.

¹⁴ Marc Stein, *City of Sisterly and Brotherly Loves: Lesbian and Gay Philadelphia, 1945-1972*, Chicago: University of Chicago Press, 2000: 50.

¹⁵ Gary Kinsman and Patrizia Gentile, *The Canadian War on Queers: National Security as Sexual Regulation*, Vancouver: UBC Press, 2009: 6-7.

¹⁶ John D'Emilio and Estelle B Freedman, *Intimate Matters: A History of Sexuality in America*, 3rd Edition, Chicago: University of Chicago Press, 2012: 319-320.

broader social changes of the sixties: Civil rights, antiwar protest, and women's liberation were direct factors.¹⁷

Canada shared and contributed to this sexual revolution. Pierre Elliot Trudeau, Prime Minister from 1968 to 1979, and again from 1980 to 1984, is often credited with having decriminalized homosexuality with the passage of his Criminal Law Amendment Act, 1968-9, otherwise known as the "Omnibus Bill." For Trudeau, there was "no place for the state in the bedrooms of the nation ... what's done in private between adults doesn't concern the Criminal Code."¹⁸ This idea of shifting the boundaries of sexual morality to a public/private divide stemmed from the 1957 British Wolfenden Report. Gary Kinsman has argued that there are "continuing legacies of this regulatory strategy on sex political struggles within Canadian social and state formation."¹⁹ The fact that Canada and the United Kingdom had liberalized their sexuality legislation at the same time that police raided the Stonewall Inn only contributed to the galvanized outrage resulting in a riot (only the US state of Illinois had repealed laws related to sodomy at the time of the Stonewall riot in 1969).²⁰ Trudeau's rhetoric surrounding the reform of criminal law regulating homosexuality was consistent with his 1968 election platform of a "Just Society," where the state was to be modern, progressive, and morally blind, while also safeguarding individual rights and liberties.²¹

This rhetoric did not match the actual legal change, and this is a reason to question the legacy of the 1968-9 Omnibus Bill. Kinsman and Gentile argued that the Omnibus Bill represented a "partial

¹⁷ David Carter, *Stonewall: The Riots that Sparked the Gay Revolution*, New York: St. Martin's Press, 2004: 259.

¹⁸ "Omnibus Bill: 'There's no place for the state in the bedrooms of the nation,'" *CBC Digital Archives*, December 21, 1967: <http://www.cbc.ca/player/play/1811727781>

¹⁹ Gary Kinsman, "Wolfenden in Canada," in Corinne Lennox and Matthew Waites, eds., *Human Rights, Sexual Orientation and Gender Identity in the Commonwealth: Struggles for Decriminalisation and Change*, London: School of Advanced Study, University of London, 2013: 183.

²⁰ Carter, *Stonewall*, 122.

²¹ John English, *Just Watch Me: The Life of Pierre Elliot Trudeau, 1968-2000*. Knopf Canada: 2009: 20.

decriminalization,” because homosexual sex was only legalized in certain circumstances.²² Homosexual sex was legalized with the stipulation that only two people could be present, and the law did nothing to combat discrimination elsewhere, including the military and civil service. Canada’s small community of gay and lesbian activists were inspired by these legislative developments as well as the actions at Stonewall, and so they held their first protest on Parliament Hill on August 28, 1971. Their 10-point, “We Demand” list articulated a platform for change, which began a tumultuous decade of confrontation between an emerging visible lesbian and gay community and various groups through the 1970s.

Gay and lesbian activism in Canada was increasingly institutionalized through the 1970s. Tom Warner has argued that “the five short years from 1970 to 1974, in particular, stand out as a golden age” and that “by the end of 1974, the foundation for political and social activism was firmly laid.”²³ Early groups, such as the Community Homophile Association of Toronto (CHAT) and the University of Toronto Homophile Association (UTHA), expanded to include the province-wide Coalition for Gay Rights in Ontario (CGRO), and the National Gay Rights Coalition (NGRC).²⁴ These groups used their institutional power to organize political and social change, with varying degrees of success. *The Body Politic* was a monthly gay and lesbian liberation newspaper, based out of Toronto, and it was launched in 1971. It prided itself on being “one of the most visible gay institutions in Canada.”²⁵ According to Catherine Nash, Toronto’s gay and lesbian political community underwent three phases from 1969 to 1980: first, an assimilationist phase following the early homophile activism from the 1960s; second, a liberationist phase that challenged “sex/gender norms and categories rather than asserting a strictly homosexual

²² Kinsman and Gentile, *Canadian War on Queers*, 221.

²³ Tom Warner, *Never Going Back: A History of Queer Activism in Canada*, Toronto: University of Toronto Press, 2002: 94.

²⁴ David Rayside, “Queer Advocacy in Ontario,” in Manon Tremblay, ed. *Queer Mobilizations: Social Movement Activism and Canadian Public Policy*, Vancouver: UBC Press, 2015: 87.

²⁵ Ed Jackson and Stan Persky, eds., *Flaunting It! A Decade of Gay Journalism from The Body Politic: an Anthology*, Toronto: The Body Politic, 1982: 1.

identity”; and finally, a human rights/minority phase in which the Toronto community claimed legitimacy.²⁶

Miriam Smith has noted that Canadian cities such as Toronto, Ottawa, Vancouver, Montreal, Halifax, and Saskatoon had established gay liberation groups in the 1970s.²⁷ Although many of these early groups were loosely organized, they were inspired by the counter-culture of the 1960s with its “transformational” ideals to eliminate “heterosexism, patriarchy and sex and gender roles.”²⁸ Smith has argued that “while gay liberation ideology was evident in Montreal from the establishment of the short-lived Front de libération homosexuelle in 1971, the linguistic divide, among other factors, impeded lesbian and gay organizing.”²⁹ Among those organizations was the Association pour les droits des gais du Québec (ADGQ), which was formed in 1976 after raids on gay bathhouses in the months preceding the Olympics. From 1975 to 1983 there were police raids of gay bathhouses in Montreal, Ottawa, Toronto, and Edmonton. These raids created national linkages between these communities. For example, when the Edmonton Police raided the Pisces Spa in May 1981, RTPC Calgary was formed to raise funds for the defense of the 62 men charged. The ADGQ and the RTPC worked together in their attempt to change the bawdy house law in the Criminal Code in 1982. Tim McCaskell became an activist in the mid-1970s as a result of this process described by Smith. In his recent book, *Queer Progress: From Homophobia to Homonationalism*, McCaskell remarked that the RTPC was an important institution for the subsequent creation of activist groups in the 1980s and 1990s. The AIDS Committee of Toronto, for

²⁶ Catherine Nash, “Toronto’s gay village (1969-1982): plotting the politics of gay identity,” *The Canadian Geographer*, 50:1 (2006): 1-16.

²⁷ Miriam Smith, *Lesbian and Gay Rights in Canada: Social Movements and Equality-Seeking, 1971-1995*, Toronto: University of Toronto Press, 1999: 43.

²⁸ *Ibid*, 34.

²⁹ *Ibid*, 56.

example, was modelled on the RTPC.³⁰ The history of the RTPC, then, bridges our understanding between the ‘liberationist’ 1970s and the AIDS crisis in the 1980s.

By the end of the 1970s, gay sex in bathhouses became a battleground between gay and lesbian political institutions, and the state. What was the source of conflict between what was happening within the walls of a gay bathhouse and the social and cultural regulations of sex? At a rally in support of the gay and lesbian community in the aftermath of the 1981 raids, author Margaret Atwood notoriously declared:

I don’t read a lot of newspapers but, when I heard about the bathhouse raids, somebody said to me, ‘the police have raided the bathhouses.’ And I said, what have they got against cleanliness? I would be very angry if I were taking a bath and somebody thought they had the right to come and kick down my door.³¹

Atwood’s statement was tongue-in-cheek, as it was common for anyone connected to this issue to be fully aware that the gay bathhouses were not used for taking a bath.

Beginning in the late 19th and early 20th centuries, Turkish, Finnish and Russian bathhouses were established in major immigrant destinations throughout North America. According to Allan Bérubé, some of these saunas and health clubs, such as the YMCA, comprise the early gay bathhouses of the 20th century.³² The purpose behind these establishments was not for gay sex, but these male-only bathing spaces, with dark winding corridors and private rooms, facilitated sexual encounters between men. For example, in a study on gay bathhouses in early 20th century Mexico, Victor M. Macias-Gonzalez has noted that “the geography of the bathhouse allowed homosexual men to find others like themselves; its sumptuous space and leisurely practices facilitated the formation of same-sex affective ties and sense of

³⁰ Tim McCaskell, *Queer Progress: From Homophobia to Homonationalism*, Toronto: Between the Lines, 2016: 190.

³¹ Transcript of Margaret Atwood Interview, Canadian Lesbian and Gay Archives, RTPC Files, (88-011), Box: 2, File: 15.

³² Allan Bérubé, “The History of Gay Bathhouses,” *Journal of Homosexuality*, 44:3/4 (2003): 36.

self.”³³ According to Chauncey, who noted the rise of gay bathhouses in early 20th century New York City, “the baths exemplify the manner in which men built a social world on the basis of a shared marginalized sexuality.”³⁴ Growing steadily in popularity along with the emerging gay community, there were roughly 50 gay bathhouses in the United States and Canada in 1969. By 1980, there were almost 200.³⁵ Men attended the baths for safety, privacy, security, camaraderie, but most of all, for erotic, sexual pleasure.³⁶

According to French philosopher and historian Michel Foucault, the first “general constraint” on sexuality in the western world occurred in the seventeenth century.³⁷ During this time of renaissance and reformation, the Catholic Church increasingly asserted its authority by focussing on “the insinuations of the flesh,” and this was combined with a renewed emphasis on the confession.³⁸ Foucault argued that it was in the confession that sexually pleasurable desires were first transformed “into discourse.”³⁹ It has been through this discourse, public and private, informal and institutional, that sex has come to be regulated in our present society. Foucault argued that the policing of sex was not simply something that was subject to law, but was and is policed in everyday life through discourse.⁴⁰

In the 19th century, a time commonly associated with rigid Victorian morality, several factors altered the discourse on sex. Foucault argued that the 19th century was not a time of sexual repression

³³ Victor M. Macias-Gonzalez, “The Bathhouse and Male Homosexuality in Porfirian Mexico,” in Victor M Macias-Gonzalez and Anne Rubenstein, eds., *Masculinity and Sexuality in Modern Mexico*, Mexico City: University of Mexico Press, 2012: 40.

³⁴ Chauncey, *Gay New York*, 208.

³⁵ William J. Woods, Daniel Tracy and Diane Binson, “Number and Distribution of Gay Bathhouses in the United States and Canada,” *Journal of Homosexuality*, 44:3/4 (2003): 62.

³⁶ Bérubé, “The History of Gay Bathhouses,” 37.

³⁷ Michel Foucault, *The History of Sexuality, vol. 1: An Introduction*, New York: Pantheon, 1978: 20.

³⁸ *Ibid*, 19.

³⁹ *Ibid*, 11.

⁴⁰ *Ibid*, 24.

and prohibition, but just the opposite: it was a time of sexual exploration and investigation.⁴¹ The emerging medical and psychiatric professions were viewed as legitimate, and scientific voices on the perils of sex, particularly sex that did not lead to procreation, were heard. New sexualities became known through these discourses, and were separated from each other based on their relative distance from a “centrifugal” heterosexual monogamy.⁴² What was initially considered “sexual sin,” became classified and categorized into adultery, rape, incest, sodomy, bestiality, buggery, and pedophilia. Since the 18th century, sexuality has undergone “a whole series of tensions, conflicts, efforts at adjustment, and attempts at retranscription.”⁴³ John D’Emilio and Estelle B. Freedman have written that the primary “agents of sexual regulation” went “from the church in the seventeenth century, to the medical profession in the nineteenth century, to the state in the twentieth century.”⁴⁴ According to Johnathan Ned Katz, the “heterosexual dominion” is largely a “cultural creation” by experts, academics, psychologist and theorists of the early 20th century, including Karl Maria Kertbeny, Richard von Krafft-Ebing, and Sigmund Freud.⁴⁵ Katz argues that the heterosexual/homosexual distinction was a recent invention, and through the last three-quarters of the 20th century it has come to powerfully “dominate concepts of sexuality.”⁴⁶ One of the first instruments used by the emerging liberal state of the late 19th century was the criminal justice system. From colonization through the 20th century, the state has played an increasing role in morally regulating the sex lives of those in North America.

⁴¹ Foucault argued, “I do not maintain that the prohibition of sex is a ruse; but it is a ruse to make prohibition into the basic and constitutive element from which one would be able to write the history of what has been said concerning sex starting from the modern epoch,” 12.

⁴² Ibid, 38.

⁴³ Ibid.

⁴⁴ D’Emilio and Freedman, *Intimate Matters*, xi.

⁴⁵ Kertbeny used the term “homosexual” in 1869. Krafft-Ebing published the *Psychopathia Sexualis* in 1886, this linked desire with procreation, and declared anything else a perversion. Freud postulated that homosexuality was determined by environmental factors and childhood development. Johnathan Ned Katz, *The Invention of Heterosexuality*, Chicago: University of Chicago Press, 2007: 17.

⁴⁶ Ibid, 36.

If Europe underwent a dramatic change in the consciousness and discourse around sexual morality in the seventeenth century, this also meant these ideals were brought with them to North America by way of colonization. D'Emilio and Freedman stated that "in every region in which Europeans and [natives] came into contact, the Europeans, applying the standards of the Christian tradition, judged the sexual lives of the native peoples as savage, in contrast to their own civilized customs."⁴⁷ The Catholic Church in Mexico and parts of New France, as well as the Protestant communities in New England, "attempted to impose monogamous marriage" throughout North America.⁴⁸ There was a great focus on the importance of sex only occurring within monogamous marriage, and so the colonial legislatures in the New World enacted statutes that "outlawed fornication, rape, sodomy, adultery, and sometimes incest, prescribing corporal or capital punishment, fines, and, in some cases, banishment for sexual transgressors."⁴⁹

The Canadian colonies were similar in that they inherited the British common law prohibitions against prostitution, sodomy and buggery, but they also moved to regulate sexuality in their own way. According to Constance Backhouse, Nova Scotia passed its *Act for Regulating Marriage and Divorce, and for Preventing and Punishing Incest, Adultery, and Fornication* in 1791, and this helped institutionalize the patriarchal, monogamous, matrimonial family unit.⁵⁰ Prostitution was specifically targeted in the middle of the 19th century, with "the first Canadian statute to mention prostitutes specifically was passed in Lower Canada in 1839 ... Persons 'in the habit of frequenting houses of ill-fame' could also be arrested if they failed to give a 'satisfactory account' of themselves. In 1858 much of this legislation was extended to the united Province of Canada."⁵¹ This was adopted into the 1892 *Criminal Code of Canada*

⁴⁷ Ibid, 6.

⁴⁸ Ibid, 7.

⁴⁹ Ibid, 18.

⁵⁰ Constance Backhouse, "Pure Patriarchy: Nineteenth Century Canadian Marriage," *McGill Law Journal*, 31 (1986): 269.

⁵¹ Constance Backhouse, "Nineteenth-Century Canadian Prostitution Law: Reflection of a Discriminatory Society," *Social History*, 18:36 (1985): 389.

and became known as the bawdy house law, which was used by police forces to raid gay bathhouses in the 1970s and 1980s. Although there were no charges of prostitution in the raids, the bawdy house law was amended in 1917 to include not only places of prostitution, but also places that practiced “acts of indecency.” This wartime amendment was due to some brothel owners advertising certain “massage” services as a front for their prostitution business.⁵² The bawdy house law connected the cultural and social attitudes toward sex, pleasure, and (in)decency with the apparatus of the state through the criminal justice system.

By 1981, there was a certain degree of social acceptance of a homosexual minority which was combined with the Trudeau-Liberal idea of bedroom privacy. But this sexual acceptance had certain limits. It needed to be kept private, and it needed to be kept between two people. The fact that the bathhouses were raided under the anti-prostitution bawdy house law indicates this idea. According to D’Emilio and Freedman, prostitution and the concept of a bawdy house “symbolized larger changes in the meaning of sexuality as it began to move outside of the private sphere of the family and away from its reproductive moorings.”⁵³ The bathhouses were raided because they were sites of sexual pleasure that fell outside of heterosexual monogamy. The underlying assumptions, attitudes, and institutions that have associated monogamy with being normal and natural have been labelled by scholars as the social construction of “mononormativity.”⁵⁴ Mark Finn has summarized this term by stating that mononormativity refers “to the relations of power that stem from the belief that the monogamous dyad is a natural, morally correct and essential aspect of relating and being human.”⁵⁵ In the normalizing

⁵² J. Stuart Russell, “The Offense of Keeping a Common Bawdy-House in Canadian Criminal Law,” *Ottawa Law Review*, 14 (1982): 274.

⁵³ D’Emilio and Freedman, *Intimate Matters*, 51.

⁵⁴ Robin Bauer, “Non-Monogamy in Queer BDSM Communities: Putting the Sex Back into Alternative Relationship Practices and Discourse,” in Meg Barker and Darren Langdrige, editors, *Understanding Non-Monogamies*, New York: Routledge, 2010: 145.

⁵⁵ Mark Finn, “Monogamous order and the avoidance of chaotic excess,” *Psychology and Sexuality*, 3:2, (2012): 124.

enforcement of the legal code of monogamy, the only kind of homosexual sex that was decriminalized in 1969 was sex between two people.

Both Maynard and Chauncey utilized Foucault's theories on the history of sexuality. In Maynard's analysis of early 20th century Toronto, he examined the surveillance of sexual deviance by members of the police. He used Foucault's theory on "anchor points" as a means to study "the dialectics of discovery." In other words, historians can study sexual subcultures by examining the "local centers" where sexual deviance met face to face with social discourses on sex.⁵⁶ In Toronto in the early 20th century, for example, we know that a homosexual subculture existed because not only did men find other men to have sex with, the police found them as well. It was at the moment that the police found men having sex, or in the courtroom where men were put on trial for having sex, that the issue was brought "to the attention of a wider public."⁵⁷ Similarly, the surveillance of Toronto bathhouses by undercover police agents in the 1970s and early 1980s brought the idea of kinky gay group sex into the light of a courtroom embroiled in public controversy. The bathhouse, when observed by police agents, became the place of intersection between gay men's sexual liberation and public perceptions of morality. Anonymous, casual, and group sex disrupted the monogamous order, but the actions of the police agents produced a discourse that went far beyond the walls of an inconspicuous bathhouse. The resistance in the streets and in the courtrooms, organized by seasoned queer activists, magnified this discourse of orgies and nonreproductive pleasure through various mediums, informing and shaping public assumptions of monogamy and sexual morality.

What tactics did the RTPC use in resisting the police? The RTPC cannot be understood as a singular entity, but rather as a loose collection of gay activists and gay business owners, with lesbian and straight allies. It included journalists, lawyers, academics, teachers, a baker, and a clergyman. It was

⁵⁶ Maynard, "Through a Hole in the Lavatory Wall," 239.

⁵⁷ Ibid, 240.

governed, most of the time, as an organization open to anyone concerned about the actions of the police. Led by an elected chairperson, this leadership role proved vital to the ideological and tactical changes that occurred over the course of the RTPC's history. There were three phases of leadership that correspond to the Committee's institutional changes. The first phase of the RTPC, after the 1978 Barracks raid, was as a small centralized committee (of no more than fifteen active members) that acted as representative of a minority community. The second phase of the RTPC, after the February 5, 1981 raids, was a diffuse committee of many independent sub-committees that largely revolved around the legal defense of the men charged. A meeting at Jarvis Collegiate on February 10, 1981, brought hundreds of community members into the organization. And the third phase of the RTPC, after the trials, was the institutional phase, where a skeleton of the former committee continued to be operated by a handful of seasoned activists and academics. In order to understand the tactics used by these activists, protestors, lawyers, found-ins, keepers, journalists, and academics, we must first situate them as resisters of social control.

The RTPC was resisting the actions of "agents of social control."⁵⁸ Social control refers to the "vast array of mechanisms and procedures in place to extract compliance of individuals or groups to some ideal standard of conduct."⁵⁹ Marcel Martel examined the individuals and groups, dubbed "moral entrepreneurs," who advocated for an increased role of the state in regulating morality.⁶⁰ With the help of experts, social and legal attitudes from the colonial era were institutionalized within the emerging modern liberal state of the late 19th century. During this time, the role of the state in the everyday lives of citizens was greatly expanded, and this increased both the number and power of state institutions regulating sexuality. The use of the state as an instrument of social control tied sexual regulation to

⁵⁸ Marcel Martel, *Canada the Good: A Short History of Vice Since 1500*, Waterloo: Wilfred Laurier Press, 2014: 5.

⁵⁹ James J. Chriss, *Social Control: An Introduction*, Cambridge: Polity Press, 2013: 1.

⁶⁰ Martel, *Canada the Good*, 4.

other forms of immorality. For example, in the case of alcohol, Craig Heron stated that “at some point in the nineteenth century in most parts of the Europeanized world, the state began to intervene more aggressively to enforce a moral code of sobriety.”⁶¹ In their resistance of the bath raids, the RTPC engaged with moral entrepreneurs and agents of social control, though their main focus was the police.

Policing as an institution has undergone significant change since the passage of morality laws in the 19th century. Criminologist James J. Chriss has stated that since the 1830s, policing in North America can be characterized into three phases. The first phase, from the 1830s to the 1920s was the “political spoils era,” where patronage and corruption “ran rampant largely because the ties between municipal governance and the police were simply too close and “chummy.”⁶² The second phase was from the 1920s to the 1960s, where systems of recruitment, governance, and accountability were increasingly institutionalized and professionalized.⁶³ Finally, the third era of policing is from the 1970s to the present. This phase, the “community-oriented or problem-oriented policing,” developed in the wake of the turbulent 1960s, “an era characterized by openly hostile relations between police and citizens.”⁶⁴ One of the main elements of this phase is the effort on behalf of police institutions and municipal governments to “repair strained relations between citizen and the police.”⁶⁵ In the 1970s, state institutions increasingly moved to rectify the disconnect between police institutions and local minority communities. The emerging queer community of Toronto was not viewed as a legitimate minority by various state institutions.

The overarching tactic used by the RTPC was to claim that gays and lesbians constituted a legitimate community. Their initial idea was to submit formal briefs listing demands for reconciliation

⁶¹ Craig Heron, *Booze: A Distilled History*, Toronto: Between the Lines, 2003: 10.

⁶² Chriss, *Social Control*, 119.

⁶³ Ibid.

⁶⁴ Ibid, 120.

⁶⁵ Ibid, 121.

aimed at municipal and provincial institutions responsible for police oversight, namely the Metropolitan Toronto Board of Commissioners of Police, and the Ontario Police Commission. They built alliances with other groups. In their attempt to remove the police pretext, they submitted briefs to Parliament on criminal law reform.

Although the RTPC was unsuccessful in these efforts, their attempts to alter the state by claiming legitimacy warrant investigation. First, the RTPC did not bring about police reform or legal change, but through that process they built coalitions with other groups, including the disability rights movement, women's groups, and Toronto's black community. The tactic used by the RTPC to build coalitions with other groups fits sociologist Alan Hunt's definition of the "umbrella effect." This term refers to when social groups, who would otherwise not have anything in common, work together to influence an issue. Hunt's analysis is based on 19th century moral reform movements who pushed for a greater role of the state in regulating morality.⁶⁶ Martel argued that this tactic was used by moral reform groups on various issues, including alcohol, gambling, birth control, prostitution, drugs, and homosexuality.⁶⁷ In the case of the RTPC, they utilized the umbrella effect not to implement moral regulation, but rather, to resist it.

The second reason these failed tactics are important to the story is that they reveal the limits of power as well as a social movement's ability to cope and adapt. Obfuscation and hostility from police commissioners, Members of Parliament, and the press demonstrate the limits of sexual deviance in Canadian political society in 1981. Similarly, in Martel's analysis of the marijuana legalization debate in 1960s-70s Canada, he argued that we should examine the failures of interest groups as they raise "important questions about the public policy process." The inability to successfully influence policy

⁶⁶ Alan Hunt, *Governing Morals: A Social History of Moral Regulation*, Cambridge: Cambridge University Press, 1999: 9.

⁶⁷ Martel, *Canada the Good*, 4.

“demonstrates the unequal distribution of power.”⁶⁸ It also shows how power and influence are subject to change. In the case of the RTPC, their failures were offset with some degree of success: they worked with elected local officials to call for an independent inquiry into the raids. This resulted in the publication of the *Bruner Report*, which ultimately declared the gay and lesbian community as legitimate.

These formal tactics of coalitions and commission briefs were supported by direct political action. This included the organization of protests, engaging with the media, and other methods learned by RTPC activists in the late 1960s and early 1970s. This also included one “zap,” a form of nonviolent protest performed by activists in New York City in the wake of the Stonewall riots.⁶⁹ A zap was a strategy to confront a political official in the midst of their daily duties in an effort to cause social discomfort. RTPC activists targeted Ontario’s Attorney General with one of these protests. To prepare for the February 20, 1981 bathhouse protests, flyers were distributed, marshals were intensively trained and equipped, protest chants were created, a stage was constructed, and megaphones were readied for a dais for high profile community leaders and activists. This is part of what Gary Kinsman has described as the emergence of a professional managerial class in the queer political movement,⁷⁰ including academics, business owners, communications consultants, and most prominently, lawyers.

The RTPC mobilized a massive fundraising and legal defense coordination strategy. This type of activism was not new to the post-Stonewall sexual liberation movement. Legal defense fundraising as a strategy of resistance was inspired by the black civil rights movement. The Legal Defense Fund, initially a branch of the National Association for the Advancement of Colored People (NAACP), raised funds and

⁶⁸ Marcel Martel, *Not This Time: Canadians, Public Policy, and the Marijuana Question, 1961-1975*, Toronto: University of Toronto Press, 2006: 207-208.

⁶⁹ Carter, *Stonewall*, 244.

⁷⁰ Gary Kinsman, *The Regulation of Desire: Homo and Hetero Sexualities, 2nd ed. Rev.*, Montreal: Black Rose Books, 1996: 299.

sponsored several notable cases in US legal history, including the Supreme Court cases of *Brown v. Board of Education* (which ended segregation in schools) and *Loving v. Virginia* (which outlawed prohibitions on interracial marriage). Learning from this, a collection of US homophile organizations created the National Legal Defense Fund (NLDF) in 1966. According to Stein, the creation of the NLDF “was another example of the homophile movement’s turn to court strategies.”⁷¹ Similarly, Smith has argued that one of the most important gay and lesbian rights organizations was Lambda Legal. Created in 1973, it continued this strategy of litigating cases on behalf of those facing discrimination in employment, the military, child custody, immigration, or for violating sodomy laws.⁷² In the post-Stonewall 1970s, litigation efforts “were not on the periphery of the gay liberation movement; on the contrary, they formed its organizational, strategic, and ideological core.”⁷³ Police reform and direct political action were part of the RTPC strategy, but resistance in the courts through legal defense fundraising and coordination was the *raison d’être* of the group. Whether to focus on police reform, political protest, or legal defense organizing were controversial choices that caused internal debate.

Each of the resisters of social control in this story were influenced by their own identities, experiences, and ideological beliefs. This leads to my final research question: what were the divisions between the activists involved in the RTPC? For example, Warner has noted the tension between adopting a human rights strategy versus a sexual liberationist strategy in the broader queer political movement. These early ideological divisions were apparent in Canada: Toronto Gay Action (TGA) was formed as a more radical group from the Community Homophile Association of Toronto (CHAT). TGA later helped organize Canada’s first gay and lesbian protest on Parliament Hill on August 28, 1971.⁷⁴ In

⁷¹ Marc Stein, *Sexual Injustice: Supreme Court Decisions from Griswold to Roe*, Chapel Hill: The University of North Carolina Press, 2010: 152.

⁷² Miriam Smith, *Political Institutions and Lesbian and Gay Rights in the United States and Canada*, Florence, KY: Routledge, 2008: 47.

⁷³ Smith, *Lesbian and Gay Rights in Canada*, 48.

⁷⁴ Warner, *Never Going Back*, 76.

spite of these early assimilationist-versus-liberationists divides, by the late 1970s, these various groups coalesced under a broader human rights strategy.⁷⁵ Naming the RTPC was a controversial exercise, but ultimately the founding members of the group opted to use a language of rights. They questioned whether the organization was a rights-based group or a sexual liberationist group through each of their campaigns. The RTPC existed in a fault line in the conflict between rights and liberation: respectable rights activists defended saunas and orgy rooms, while liberationists argued that individuals have a right to not have their sex lives policed by the state.

Those seeking a liberationist change helped maintain the RTPC as a radical organization. Starting in the early 1970s, many gay and lesbian liberationists developed a Marxist critique of sexual regulation. The UK-based Gay Left Collective rejected the idea of “reformism” through alliances with capitalist institutions. However, they were drawn to the struggle of protecting “lesbians and gay men against the police and the courts.”⁷⁶ Several of the activists involved in the RTPC, including the academics, journalists, and some of the lawyers, were affiliated with leftist groups. This inspired their methods of direct political action, but it also was a point of tension because these individuals resisted the growing influence of gay business owners within the organization. Nash has argued that the 1978 Barracks raid, the first Toronto bathhouse raid, marked “a decisive moment in the relationship between gay businessmen and gay activists, one that contributed to altered political ideologies and social practices about the places ultimately constituting the emerging ‘gay ghetto.’”⁷⁷ Unlike previous notorious raids in queer history, such as the mafia-owned Stonewall Inn, the Toronto bathhouses were gay-owned and operated. That the RTPC characterized gay-owned, for-profit sexual spaces as being

⁷⁵ Catherine Nash, “Gay and Lesbian Political Mobilizations in Urban Spaces: Toronto,” in Manon Tremblay, ed. *Queer Mobilizations: Social Movement Activism and Canadian Public Policy*, Vancouver: UBC Press, 2015: 210.

⁷⁶ Gay Left Collective, “Why Marxism?” in Pam Mitchell, ed., *Pink Triangles: Radical Perspectives on Gay Liberation*, Boston: Alyson Publications, 1980: 98-99.

⁷⁷ Catherine Nash, “Consuming Sexual Liberation: Gay Business, Politics, and Toronto’s Barracks Bathhouse Raid,” *Journal of Canadian Studies*, 48:1 (2014): 83.

integral to liberation marked a “significant shift” in the “newly evolving gay movement ideology.”⁷⁸ The bath raids forced Marxist-liberationists, who were eager to come to the aid of men charged by the state for having group sex, to work together with gay business, which emerged in the 1970s to exploit the newly forming sexual market. This conflict dominated the early years of the RTPC and was a continually brewing controversy until the massive raids in February 1981. The reaction to Operation Soap brought hundreds of community members into the organization, and this allowed a greater variety of perspectives on the nature of policing and sexuality.

Through the 1970s, Canadian gay and lesbian organizations were sites of conflict between men and women, particularly over the movement’s focus on gay male sexuality.⁷⁹ Angus McLaren remarked that “If the 1960s and 1970s are still to be labelled years of ‘sexual revolution’ it is in the sense that the period witnessed, not one simple liberation, but the emergence and clash of a variety of new sexual scripts.”⁸⁰ Lesbian critiques of sexual liberation in the 1970s included:

...it is the male ideology that dominates. Its basic tenets – belief in hierarchy, competition, contempt for weakness, the inferiority of women, the acceptability of violence, all built into the social system and powerfully symbolized in attitudes toward sex – promote its continued dominance. Gay men don’t play by all the male rules but they don’t necessarily reject the whole ball game.⁸¹

Chris Bearchell, a lesbian activist who was involved in both the *Body Politic* and the RTPC, stated that the movement of the 1970s was “numerically dominated by men” but that it was not “ever ideologically dominated by an anti-female agenda.”⁸² Although they have often been marginalized in the predominantly gay-male commercial districts that emerged in the 1970s, Catherine Nash and Andrew Gorman-Murray have argued that lesbians “constituted alternative urban locations,” some of whom

⁷⁸ Ibid, 99.

⁷⁹ Warner, *Never Going Back*, 129.

⁸⁰ Angus McLaren, *Twentieth-Century Sexuality: A History*, Malden: Blackwell Publishing, 1999: 167.

⁸¹ Pam Mitchell, “Lesbians and Gay Men Hetero Sexualities, Common Cause,” in Pam Mitchell, ed., *Pink Triangles: Radical Perspectives on Gay Liberation*, Boston: Alyson Publications, 1980: 49-50.

⁸² Miriam Smith, “Interview with Chris Bearchell, Lasqueti Island, 1996,” *Journal of Canadian Studies*, 48:1 (2014): 258.

participated in feminist organizing, some in lesbian organizing, and some in both.⁸³ Notable women were important to this battle over bathhouses, including Bearchell, Mariana Valverde, Harriet Sachs, Barbara Hall, and Rebecca Shamai. Resisting the bath raids was yet another issue that focussed on gay male sexuality, but the experience of police brutality by lesbians and women on the streets of Toronto meant they were invested in the community response. The RTPC was often a battleground of issues between gay men and lesbians within the emerging queer community of Toronto.

Dissertation Outline

According to Nash, “the RTPC was a controversial organization from its inception.”⁸⁴ The cross-section of interactions and confrontations between various interests tells us far more about queer Toronto in the late 1970s and early 1980s than merely bathhouses and protests. The different resisters of social control influenced the ideological direction of the RTPC, so we cannot view this as one entity devoted to a singular cause, but as an institution that underwent several incarnations. They used a wide array of tactics to engage and resist the state. The story of the RTPC is the product of a decade full of newly emerging political communities and their accompanying sites of oppression and resistance.

In writing this dissertation, I have used a wide variety of historical sources. Much of the story can be found in the pages of the *Body Politic*, which kept an active journal of the community’s main news stories of the period. The *Toronto Star* and the *Globe and Mail* also offered narrative and sometimes material for primary analysis. The *Toronto Sun*, although not useful for developing the story of the bath raids, had certain members of their staff who were quite vocally against the gay and lesbian community, Claire Hoy in particular; this was useful in demonstrating the power of a resurgent religious right in the late 1970s. Archival material was gleaned mostly from the Canadian Lesbian and Gay Archives, including the *Body Politic*, RTPC, Right to Privacy Foundation, and the Arnold Bruner files.

⁸³ Catherine Nash and Andrew Gorman-Murray, “Lesbians in the City: Mobilities and Relational Geographies,” *Journal of Lesbian Studies*, 19 (2015): 176.

⁸⁴ Nash, “Consuming Sexual Liberation,” 94.

Finally, I have undertaken a project to interview a cross section of activists, witnesses, and others who were present through this story.⁸⁵ This includes the Reverend Brent Hawkes, RTPC lawyer Clayton Ruby, and an anonymous former member of the Metropolitan Toronto Police, who was one of the undercover investigating officers as part of the initial 1978 raid against the Barracks.

This dissertation is broken into five chapters, organized both chronologically and by the venue of interaction between the agents of and the resisters to social control. In chapter one, I review the tensions that existed between the gay and lesbian communities through the early 1970s, while at the same time a small but visible commercial district, with a professional class of gay business owners, emerged as an influence on the movement. These new spaces were subject to surveillance, and it is here that we analyze the undercover interactions between the Metropolitan Toronto Police and the gay men who frequented bathhouses. In chapter two, after the Barracks bathhouse raid, the RTPC embarked on a campaign to reform police agencies while also constructing itself as a minority community. Members of the RTPC reached out to other communities in Toronto to build an umbrella group for police reform. Chapter three details the efforts used by gay and lesbian activists to be recognized as a legitimate community within the City of Toronto. In the wake of Operation Soap, the

⁸⁵ I conducted 24 interviews from Fall 2012 to Fall 2016. In most cases, I was connected to individuals through word of mouth while researching at the Canadian Lesbian and Gay Archives (CLGA). In other instances, I discovered an individual's name in the archival material and searched for them on Google or Facebook. In a small number of cases, I was connected with interviewees through my personal social networks. Interviews were anywhere from 60 to 90 minutes and they were captured on a voice recording device. Interviewees signed an informed consent form, and in all cases, they accepted my request to donate the material to the CLGA. Each interview was a dialogue between me and the interviewee. I began each session asking about the individual's broader personal history, and in particular, "how did you end up in Toronto in the 1970s/1980s"? In several instances, the interviewee declined to participate due to concerns over memory. When this occurred, I attempted to spark memory by showing a relevant document or picture from the archives. This was usually successful, but in a couple of cases, the prospective interviewee declined to meet. Some of the defense lawyers with the RTPC have become members of the judiciary, and were unable to speak to me about matters involving sexual politics, the law, and the police. I regret not reaching Don Franco and John Alan Lee, both of whom passed away during the course of my research. This dissertation will never be complete, and the story of the RTPC will never be fully known, as there are far too many voices that have been taken from us since the AIDS epidemic.

RTPC became a large community organization with renewed ideas and conflicts, particularly between gay men and lesbians.

In chapters four and five, I take a closer look at the legal battles that ensued in the aftermath of the mass arrests. Chapter four examines the attempt by the RTPC to lobby for Criminal Code reform at the Standing Committee on Justice and Legal Affairs at Parliament Hill in 1982. Using the bath raids as an example of injustice and betrayal of Trudeau-Liberalism, George Smith and Graham Crawford of the RTPC travelled to Ottawa to put forth the gay liberationist perspective. An off-hand remark by Liberal Member of Parliament Ken Robinson, that gay group sex should remain prohibited in the Criminal Code because “more than two is a crowd,” demonstrated the mononormative perspective of both Parliament and Canadian society. In chapter five, I examine the massive coordinated legal defense through the creation of two RTPC-affiliated institutions: Gay Court Watch and the Right to Privacy Foundation. In addition to raising more than \$100,000 to cover legal fees for the found-ins charged in the raids, Gay Court Watch coordinated lawyers to ensure a more than 90% success rate in court. Ultimately, the last of the Toronto bathhouse raids occurred on April 20, 1983, and because of the RTPC’s legal efforts, this ended in embarrassment for the police and the Crown.

This is a uniquely Canadian story, which allows us to reflect on some of the more nation-building historical legacies, including the 1969 Omnibus Bill at the infamous Trudeau quote on nations and bedrooms. It allows us to explore the ideological divisions and priorities of the early Toronto gay and lesbian movement in the wake of the Stonewall uprising. It reveals the marginalization of women and the prioritizing of sexual over gendered ideological struggles. But more than anything else, it shows a community of resisters, who were capable of harnessing the political power of an oppressed community, into institutional, direct action for change. This is the story of the Toronto bathhouse raids, and the community’s responses to them.

Chapter 1 – Queer Toronto in the 1970s and the Origins of the Right to Privacy Committee

The reaction to Operation Soap was not spontaneous. It occurred in the context of an increasingly institutionalized gay and lesbian political community through the 1970s, which symbolically began on Parliament Hill in August 1971. This was a community characterized by internal debate and division over several important issues. The birth of gay liberation around the time of the 1969 Stonewall riots asserted the need for public cultural confrontation on sexual morality. This liberation movement rejected earlier forms of activism and labelled them as harmful, conservative, and "up-tight."¹ Liberationists were divided against the more cautious, liberal human-rights strategy which advocated for incremental change. The emergence of a second-wave feminist consciousness highlighted a divergence in the political priorities of feminists, lesbians, and gay men. The 1981 bathhouse raids must first be situated within these community divides in the immediate wake of sexual liberation.

I decided to begin this story in the early 1970s based on the methods employed in existing scholarship. This study on the bath raids is focussed on Toronto, and I was inspired by other local queer histories. In both Marc Stein's study of Philadelphia and John D'Emilio's study of San Francisco, they argued that the pre-Stonewall era is often ignored by historians.² Ignoring the era before Stonewall leaves the impression that such a turning point emerged spontaneously, and was limited to a singular locality. The 1981 bathhouse raids suffer a similar popular fate: rarely is it understood within a broader historical context. There are notable scholarly exceptions to this, and in each instance the response to the bath raids are situated as the result of a new political movement which began in the early 1970s. Tom Warner argued that in the late 1960s, "lesbians and gays began to form a new consciousness, and

¹ David Carter, *Stonewall: The Riots That Sparked the Gay Revolution*, New York: St. Martin's Press, 2004: 117.

² Marc Stein, *City of Sisterly and Brotherly Loves: Lesbian and Gay Philadelphia, 1945-1972*, Chicago: University of Chicago Press, 2000: 4, 289; John D'Emilio, *Sexual Politics, Sexual Communities: Second Edition*, Chicago: University of Chicago Press, 1998: 2.

their first organizations, along with a sense of community from which they could draw strength.”³

According to Gary Kinsman and Patrizia Gentile, “the RCMP encountered something new and different in the gay and lesbian activists it confronted in the 1970s.”⁴ In spite of this newfound attention, these sexual liberation groups that were established in major cities across Canada were loosely organized. In Miriam Smith’s analysis of pre-Charter gay and lesbian activism, she argued that “gay liberation grew out of the counter-culture of the sixties and its meaning frames were transformational, aimed at the elimination of heterosexism, patriarchy and sex and gender roles,” and that these “groups solidified their institutionalized networks over the course of the seventies.”⁵

This chapter begins by tracing the ideological formations and divisions which occurred among queer activists in the years following the “We Demand” protest of 1971. Although the RTPC was established in reaction to a 1978 police raid, its formation was influenced by community forces extending further back into the 1970s. Warner argued that from 1970 to 1974, “there was great optimism regarding what small groups of committed lesbian and gay liberationists scattered about the country would be able to do to create broad social change – a revolution in which liberated sexuality would play a leading role.”⁶ The 1970s was a new era of collaboration and cooperation among various groups of queer people mobilized into the political process. However, this was also a time in which ideological debates over human rights, revolution, feminism, and capitalism were consistently coming to the fore. I view these individuals and groups as resisters of social control. In Marcel Martel’s description of “agents of social control,” he argued that “the state has never been a neutral agent,” and that “on the contrary, it has been the site of infighting that pits various components of the state apparatus, such as

³ Tom Warner, *Never Going Back: A History of Queer Activism in Canada*, Toronto: University of Toronto Press, 2002:42.

⁴ Gary Kinsman and Patrizia Gentile, *The Canadian War on Queers: National Security as Sexual Regulation*, Vancouver: UBC Press, 2010: 243.

⁵ Miriam Smith, *Lesbian and Gay Rights in Canada: Social Movements and Equality-Seeking, 1971-1995*, Toronto, University of Toronto Press, 1999: 43.

⁶ Warner, *Never Going Back*, 94.

civil servants, judges, police officers, and social workers against each other.”⁷ The resisters of social control should be viewed within the same complex analytical framework: radicals, moderates, feminists, professionals, and businesses owners were often pitted against each other in the resistance against police raids on gay institutions. The RTPC was a site of infighting among various ideological forces and interests which developed through the 1970s.

At the same time, this newly emerging political community was placed under the surveillance of both national and local police forces. Surveillance, which was often combined with entrapment, was used in several social-sexual spaces: bars, bathhouses, the *Body Politic*, and public spaces notorious for gay sex, such as washrooms and parks. When the first Toronto bathhouse raid occurred on December 9, 1978, the community responded in ways that built upon on their collective political experience responding to police surveillance through the 1970s. The popular narrative of the RTPC is that it reacted to the 1981 bathhouse raids, but we should instead view this organization as a by-product of an emerging political community, which symbolically began at the doors of Parliament Hill in August 1971 at a protest called, “We Demand.”

“We Demand” and the Creation of a Dynamic Political Community

Sexual liberation came to Canada as a result of two main events: the Trudeau reforms of the Criminal Code, and the 1969 riots at the Stonewall Inn in New York City. According to historian David Carter, New York’s queer community was incited to riot in part due to the reform of laws regulating homosexual sex by various U.S. allies, including the British (1967) and Canada (1969).⁸ Stonewall has been studied by historians not as the beginning of sexual revolution, but rather as a moment of radicalization that spread throughout the existing gay and lesbian political networks established in the

⁷ Marcel Martel, *Canada the Good: A Short History of Vice Since 1500*, Waterloo: Wilfred Laurier University Press, 2014: 6.

⁸ Carter, *Stonewall: The Riots That Sparked the Gay Revolution*, 122.

1950s and 1960s.⁹ This new liberationist spark extended to every major city in North America and beyond.¹⁰ In Canada, this inspired a critical examination of Trudeau's Criminal Code reforms. The "We Demand" protest on Parliament Hill was the culmination of the radicalism inspired through Stonewall, and the inadequacy of the Omnibus Bill.

"We Demand" was a 10-point list of reforms, some of which were liberationist, while others were more moderate. The first political incarnation of liberation in Canada was the formation of a chapter of the Gay Liberation Front (GLF) in Vancouver in November 1970, with other similar groups forming shortly after. The original GLF was created in New York City following the Stonewall riots, and represented the more radical perspective of the community. The GLF was met with internal dissent and did not last as an institution, but other splinter groups were formed, including the Gay Activist Alliance (GAA) in December 1969. This group was a "hybrid" between "militant, though non-violent" direct political action, and "a strategy for attaining civil rights and an end to discrimination."¹¹ Similar to New York, early groups in Canada diversified in the early 1970s. Groups including the Front de liberation homosexuel (FLH), the University of Toronto Homophile Association (UTHA), the Vancouver Gay Alliance Toward Equality (GATE), and Toronto Gay Action (TGA) were influenced by the GAA.¹² Two members of TGA, David Newcome and Herbert Spiers, drafted the list of demands. TGA's Charlie Hill, FLH member Pierre Masson, and Community Homophile Association of Toronto (CHAT) members George Hislop and Pat Murphy gave speeches. The list of demands included liberationist ideas, such as Demand 10, which called for changing the attitudes of government officials and police away from homophobic prejudice, as

⁹ Stein, *City of Sisterly and Brotherly Loves*, 289-291.

¹⁰ For example, liberationist and radical groups were formed in the United Kingdom. For the Marxist interpretation of gay liberation, I cite the Gay Left Collective, a socialist journal produced from 1975-1980. See: Gay Left Collective, "Why Marxism?" in Pam Mitchell, ed., *Pink Triangles: Radical Perspectives on Gay Liberation*, Boston: Alyson Publications Inc., 1980: 98-106.

¹¹ Warner, *Never Going Back*, 68.

¹² *Ibid*, 67.

well as rights-based ideas, including Demand 9, which called for full legal equality.¹³ Had Demands 1 and 2 been implemented, which were to remove gross indecency and indecent act from the Criminal Code, there would have been no police pretext for the bath raids. Demand 5 was to implement rights protections in employment and promotion.

These demands were part of a strategy broadly, but not universally, adopted by activists in the early 1970s. Acknowledging the debate, Brian Waite wrote for the *Body Politic* in March 1972 arguing that both liberation and a civil rights strategy were not mutually exclusive, and that they should be used together in a “two-pronged approach.”¹⁴ The idea of liberation as a concept meant the achievement of “fundamental social change.”¹⁵ Liberationists focussed their energies toward more radical ends, including the destruction of “repressive social institutions such as the family or traditional gender and sex roles,” and they worked toward the “dissolution of the very categories of homosexual and heterosexual.”¹⁶ The moderate, civil rights mode of activism focussed on incrementally changing human rights codes and other legislative measures. In January 1975, Ken Popert made an argument similar to Waite’s in the *Body Politic*. He was speaking of political divisions within the Coalition for Gay Rights Ontario (CGRO), where there were two diverging interests: on the one hand, the loud, outspoken, radical political activists who resided near the “gay ghetto” of downtown Toronto, versus the more moderate groups coming from the rest of the province. Popert argued that “the difficult task of formulating a CGRO programme which will enjoy the support of all Ontario gays [is] to work together now for gay civil rights and, ultimately, for the liberation of gay people.”¹⁷ While liberationists were

¹³ Rick Bébout, “The Origins of ‘We Demand,’” Canadian Lesbian and Gay Archives (CLGA), *We Demand: 1971*, <http://www.clga.ca/Material/Records/docs/wedemand.htm> - June 1997.

¹⁴ Brian Waite, “Strategy for Gay Liberation,” *Body Politic*, March 1972: 4 and 19; reprinted in Ed Jackson and Stan Persky, *Flaunting It! A Decade of Gay Journalism from the Body Politic*, Vancouver: New Star Books, 1982: 221.

¹⁵ Warner, *Never Going Back*, 67.

¹⁶ Smith, *Lesbian and Gay Rights in Canada*, 9.

¹⁷ Ken Popert, “Comment: All together now,” *Body Politic*, 1 January 1975: 10.

happy to utilize rights-based activism as a means to an end, these two modes of activism often came into conflict with one another.

For the Toronto community, this conflict was most obvious during the John Damien campaign. Damien was a horse-racing steward who worked for the Ontario Racing Commission, and he was dismissed from his job on February 6, 1975. His dismissal was due to the fact that Damien was gay, and as a result, his employer believed him to be susceptible to blackmail. They offered him a \$1,700 payout as well as a letter of recommendation if he agreed to work somewhere outside of Ontario. Damien refused, but was dismissed from his job anyways. The more conservative Damien launched a complaint with the Ontario Human Rights Commission in which he articulated an equality-seeking approach to the issue. In an interview with the *Body Politic*, Damien argued, "You can't solve the whole country's problem with gayness at one time. It's like learning to walk. That's what the gay community is doing, learning to walk. You can't do too much at one time."¹⁸

In what might be seen as a prelude to the RTPC, the community unified in support by creating the Committee to Defend John Damien (CDJD), a group that raised funds to support his legal case against the Ontario Government. After his dismissal, Damien approached the Toronto chapter of GATE, which devoted resources and volunteers toward establishing the defense committee. However, the CDJD's exclusive focus on a moderate civil rights strategy caused division. In an October 1977 editorial by the *Body Politic*, the liberationists decried the fact that the CDJD was making the case into "the misfortune of *one* man rather than representative of a whole array of discriminatory acts experienced daily by a substantial minority of people."¹⁹ Michael Lynch, the *Body Politic* journalist who closely followed and reported on the case, agreed with this assessment. Lynch argued that Damien's sexuality and the link to the broader gay community, including GATE, had been almost entirely removed from his

¹⁸ "I'm Determined to Win," *Body Politic*, May 1975: 13.

¹⁹ "Damien Days of Protest: Time to get back on track," *Body Politic*, October 1977: 2.

defense fundraising. Lynch decried the sanitized efforts as “insulting not only to John Damien but to the rest of us as well.”²⁰ In 1986, Damien won a \$50,000 settlement from the Ontario Racing Commission, however, he died of pancreatic cancer in December of that year.²¹ His case highlighted a division between liberationists and rights activists, but this was not the only tension within Toronto’s queer community of the 1970s.

In Waite’s 1972 “two-pronged” approach to rights and liberation, he cited the emerging women’s movement as an example to follow. In his view, sexual liberationists could learn from the ways in which women’s liberation incorporated both radical and rights strategies through the 1960s and early 1970s. Waite argued that gays and feminists shared a “common source of oppression in the socialization and education which takes place in the traditional family structure.”²² As in the queer community, the emergence of second-wave feminist consciousness in the 1960s had various ideological tensions. There were leftist, socialist, and lesbian feminists who shared Waite’s perspective on the oppressive family unit. However, there were moderate liberal feminists who rejected lesbianism as a ‘lavender menace,’ which threatened the public perception of feminism and its ability to create coalitions with other groups.²³ There were also radical feminists who “began to view sex itself as a poison pawn, an instrument that primarily served male needs,” and some “regarded all sex as tainted by male violence and misogyny.”²⁴ The divide between gay men, lesbians, and feminists existed throughout the activist campaigns of the 1970s. Leftist author and activist Pam Mitchell argued that “lesbians and gay men make strange bedfellows, especially when it comes to sex.”²⁵

²⁰ Michael Lynch, “Defending John Damien,” *Body Politic*, October 1977: 11.

²¹ Robert Rothern, “The Forgotten hero: Too gay for the horseracing business,” *Daily Xtra*, January 17, 2007.

²² Waite, “Strategy for Gay Liberation,” 222.

²³ Angus McLaren, *Twentieth-Century Sexuality: A History*, Malden: Blackwell Publishing, 1999: 186.

²⁴ *Ibid*, 185.

²⁵ Pam Mitchell, “Lesbians and Gay Men Hetero Sexualities, Common Cause,” in Pam Mitchell, ed., *Pink Triangles: Radical Perspectives on Gay Liberation*, Boston: Alyson Publications, 1980: 48.

In Canada, controversy between gay men and lesbians regarding sex inundated the ill-fated National Gay Rights Coalition (NGRC) through the mid to late 1970s. The NGRC was formed in 1975 and was focussed on further liberalizing the Criminal Code as set out by the 1971 “We Demand” protest. The most controversial decision by the NGRC was to call for the repeal of age of consent laws. This was divisive because there were those within the NGRC who agreed with an age of consent, and there were those who argued that the age of consent debate revealed the undue attention given to the sexuality of gay men.²⁶ At the NGRC’s 1976 meeting, the lesbian contingent met on their own, separate from the other sessions of the conference. According to Miriam Smith, “because of tensions between lesbian feminists and the women’s movement on the one hand and lesbian feminists and the gay liberation movement on the other, some lesbians favoured the creation of an autonomous lesbian movement.”²⁷ At the 1977 conference, not only were there separate meetings for lesbians, but during the plenary sessions, gay men voted against lesbian resolutions, and many lesbians voted against resolutions put forward by men, including suggested amendments to the Criminal Code.²⁸ The divide between gay men and lesbians was apparent nationally, not just locally.

Scrutiny and Unity – Jaques, Men Loving Boys, Anita Bryant

Toronto’s queer community was subject to increasing scrutiny and surveillance through the 1970s. There was a campaign launched in the mid-1970s by the Metropolitan Toronto Police to clean up Toronto’s Yonge Street, where a section of heterosexual body-rub parlours between Dundas and Gerrard Streets became known as “Sin Strip.” This increased police presence was noticed by the community, as police agents increasingly used entrapment-based arrests in the washrooms of the St. Charles Tavern and the Parkside Inn, which were known gay hangouts located only a few blocks north of

²⁶ Warner, *Never Going Back*, 156.

²⁷ Smith, *Lesbian and Gay Rights in Canada*, 30.

²⁸ Warner, *Never Going Back*, 156.

Sin Strip.²⁹ However, the focal point of the police campaign was heterosexual deviance in a popular section of Yonge Street. The 1977 murder of Emmanuel Jaques caused a moral panic, and was used as a justification by police to increase their surveillance of the queer community.

The public reaction to the murder fits the definition of a moral panic. Jaques, a 12-year-old shoeshine boy, was murdered by four men associated with one of the heterosexual body rub parlours on Sin Strip. In addition to being brutally murdered, Jaques was sexually assaulted. The attack was photographed by the assailants. The crime of the four men (who were later convicted) established a direct link between the sin of Yonge Street and homosexuality, and linked homosexuality to pedophilia. In social movement theory, a moral panic occurs when “a condition, episode, person or group of persons emerges to become defined as a threat to societal values and interests.”³⁰ The public debate becomes “framed in moral terms” and the perceived risk to society is either manufactured or exaggerated.³¹

The moral panic in summer 1977 was perpetuated by several actors: first, the media consistently referred to the murder suspects as “Jaques’ homosexual murderers.” CGRO activist Tom Warner and CHAT activist George Hislop held a press conference decrying the media’s continual association of the Jaques murder with Toronto’s homosexual community.³² Through two large demonstrations (one involving 15,000 people), Toronto’s Portuguese community “clamoured for restoration of capital punishment, more power to the police, and the eradication of homosexuals.”³³ Although the Portuguese-Canadian community, through their September 1977 edition of their local newspaper *Education Educator*, condemned the demonstration and denounced “the climate of

²⁹ “War on sin produces gay casualties,” *Body Politic*, October 1975: 8.

³⁰ Stanley Cohen, *Folk Devils and Moral Panics*, New York: Routledge, 2011: 1.

³¹ Marcel Martel, *Not This Time: Canadians, Public Policy, and the Marijuana Question, 1961-1975*, Toronto: University of Toronto Press, 2006: 6-7.

³² “Don’t condemn us with strip: Homosexuals,” *Toronto Star*, August 10, 1977: B1.

³³ “Media fosters bigotry with murder coverage,” *Body Politic*, September 1977: 1.

hysteria,” the moral panic was already beyond them.³⁴ Finally, politicians, including the Attorney-General Roy McMurtry, aided in the moral panic which extended the issues of Sin Strip to the gay community: according to the *Body Politic*, “McMurtry enlarged the province’s drive against the Yonge Street ‘strip’ to include gay hustlers. He referred to ‘an alarming increase in male prostitution in Toronto.’”³⁵ This moral panic associated gay men, Sin Strip, and pedophilia.

Four months after Jaques was murdered, the *Body Politic* published an article entitled “Men Loving Boys Loving Men.” This was published in the December 1977 issue by Gerald Hannon, who was a member of the Collective and was responsible for much of the *Body Politic*’s photo journalism. The article consisted of a dialogue between Hannon and three men (Simon, Peter and Barry) who professed to ongoing sexual relationships with children. Their relationships were described in explicit detail, and Hannon reviewed the complicated nature of adult men engaging in sexual contact with boys aged seven to fourteen. The article is explicit about the men’s sexual contact; in Simon’s case, he and his twelve-year-old friend, David, engaged in oral sex and mutual masturbation. In Peter’s case, his seven-year-old friend enjoyed performing oral sex on him.³⁶ Hannon’s interest in the topic was inspired by a deeper philosophical curiosity on the socially constructed separation of children and adults, and he enjoyed provoking debate over taboo subjects.³⁷ This article was met with criticism both within the queer community, and in the popular media. Simon, Peter, and Barry were not characterized as child molesters. Instead, Hannon concluded that these three men were “community workers who deserve our praise, our admiration and our support.”³⁸ On January 5, 1978, Metropolitan Toronto Police raided the office of the *Body Politic*, and charged Ken Popert, Ed Jackson, and Gerald Hannon with using the

³⁴ Tom Warner, “Crackdown gone too far, CGRO, politicians protest,” *Body Politic*, November 1977: 21.

³⁵ “Media fosters bigotry...” *Body Politic*, September 1977: 1.

³⁶ Gerald Hannon, “Men Loving Boys Loving Men,” *Body Politic*, December 1977. Also in Ed Jackson and Stan Persky, *Flaunting It! A Decade of Gay Journalism from the Body Politic*, Vancouver: New Star Books, 1982: 151.

³⁷ Sandra Martin, “In your face,” *Toronto Life*, 30:10 (July 1996): 70-78.

³⁸ Hannon, “Men Loving Boys Loving Men,” 159.

mail to distribute obscenity. Many in the community rallied in support of the *Body Politic*, particularly concerning the issue of freedom of speech and freedom of the press. In early 1978, a group of queer activists launched the *Body Politic Free the Press Fund*, which raised money for the collective's lengthy legal battle over obscenity and censorship.³⁹

Some gays, lesbians, and feminists criticized the article and disassociated themselves from it. According to Ed Jackson and Stan Persky, "many people in the gay community reacted with hostility," and "they blamed TBP for provoking – perhaps intentionally – the intervention of the attorney general's pornography squad."⁴⁰ Feminists were critical of the content, particularly regarding sex and power relations. In the article, Hannon asked Peter, "Can a child actually choose to have sex with you when you have all the power and privilege that comes from simply being an adult?" Peter's response did not answer the question at hand; he argued that, "you can't treat sex as a mode of behaviour totally different from any other. One doesn't worry about an adult buying an ice-cream cone for a child..." This statement did not answer the important question of power and privilege, nor the ability of a child to grant consent. Peter continued by saying that, "I've never been tempted to use even the tiniest bit of influence I might have to get some kid to come through."⁴¹ But this assumed that power relations and privilege are always conscious, willful choices. This ignored the inherent oppressive systems of power that regulate social relations, particularly with regard to sex. In reflecting on the case decades later, Hannon recalled feminists enlightening him on the issue, and he acknowledged that had the children in his story been girls, it would have taken a different meaning.⁴² Beyond this philosophical, ethical discussion and internal community debate over sexuality was a moral panic perpetuated by anti-gay journalists and an emerging group of political evangelicals.

³⁹ Warner, *Never Going Back*, 109.

⁴⁰ Ed Jackson and Stan Persky, "Advice on Consent," in *Flaunting It! A Decade of Gay Journalism from the Body Politic*, Vancouver: New Star Books, 1982: 146

⁴¹ *Ibid*, 155.

⁴² Interview with Gerald Hannon, February 8, 2016.

There were many journalists who were hostile to sexual liberation and the emerging gay and lesbian community, but the most prominent example was Claire Hoy from the *Toronto Sun*. In the weeks prior to the January 1978 raid on the *Body Politic*, Hoy brought the “Men Loving Boys Loving Men” article to the attention of the broader public. In an article entitled “Our Taxes Help Homosexuals Promote Abuse of Children,” Hoy attacked the *Body Politic* for having received two Ontario Arts Council grants worth \$1,500 each.⁴³ This was followed by another piece a few days later which argued that the gay rights movement was a smokescreen for pedophilia.⁴⁴ Hoy used his position as the *Sun*’s Queen’s Park reporter to attack Toronto’s queer community in the immediate aftermath of the Emmanuel Jaques murder.⁴⁵ He continued his attacks after the raid on the *Body Politic*, arguing that homosexuals “want to sign up converts, to get into the school system and preach.”⁴⁶ This was part of a decades-long battle between Toronto’s queer community and the *Toronto Sun*.⁴⁷ Queer activists fought back against Hoy. In November 1977, he appeared on a CBC program reviewing gay rights, where he advocated against extending legislative protection to “homosexuals.” Some activists waited for him to exit the studios on Jarvis street where they attempted to hit him with a coconut cream pie. He deflected the pie into the back of Baptist Reverend Joseph MacDonald, who founded a group called the Committee Against Homosexual Rights Legislation.⁴⁸ Weeks prior in Des Moines, Iowa, U.S. gay activist Tom Higgins threw a pie in the face of evangelical spokesperson Anita Bryant.⁴⁹

The anti-gay “Save the Children” campaign came to Toronto in January 1978, immediately after the police raid over the “Men Loving Boys Loving Men” article. Bryant began her campaign in Dade

⁴³ Claire Hoy, “Our Taxes Help Homosexuals Promote Abuse of Children,” *Toronto Sun*, December 22, 1977: 20.

⁴⁴ Claire Hoy, “Kids, not rights, is what they crave,” *Toronto Sun*, December 25, 1977: 16.

⁴⁵ Claire Hoy, “Gay whining falls on deaf ears,” *Toronto Sun*, August 10, 1977: 16.

⁴⁶ Claire Hoy, “Homosexuals recruiting,” *Toronto Sun*, January 6, 1978: 12.

⁴⁷ Andrew Brett, “Gays vs the Toronto Sun,” *Daily Xtra!* November 17, 2010 [online] <http://www.dailyxtra.com/toronto/news-and-ideas/news/gays-vs-the-toronto-sun-5781>

⁴⁸ Ed Jackson, “Pie Splatters, Hoy Splutters,” *Body Politic*, December 1977: 8.

⁴⁹ “Anita gets a pie in the face, October 27, 1977,” *YouTube* [online] <https://www.youtube.com/watch?v=H-A2QI81WTY>

County Florida, where in 1977 she successfully led an effort to repeal a local ordinance that protected against discrimination in employment on the basis of sexual orientation. Bryant believed this would put school children “at risk,” because it would mean schools could no longer fire a teacher for being homosexual. Upon her initial success at repealing the ordinance in Dade County, she took her message on the road. This Save the Children campaign had allies in Toronto and the surrounding area, including the Reverend Ken Campbell of the evangelical group Renaissance International, as well as the People’s Church in North York. Campbell invited Bryant to come to Toronto as part of his six-month cross-country Christian Liberation Crusade.⁵⁰ It was a sign to queer activists that there was an increasing market for U.S.-style homophobic evangelicalism. The *Body Politic* dubbed Bryant and her husband, Bob Green, as “born again capitalists,” who were keen to continue their earnings of more than \$350,000 per year.⁵¹ In the midst of the Bryant visit, Toronto’s queer political community rallied in response to this perceived “threat.”⁵²

Anita Bryant’s visit had the effect of uniting activists after a period of tumultuous divisions between gays, lesbians, rights activists, and liberationists. On the Saturday night of her visit (January 14, 1978), 1,000 queers and their allies demonstrated in protest. They gathered for a rally at St. Lawrence Hall and then marched along King St. and through the city. The demonstrators held signs that read “Anita Bryant is a Tyrant”, and organizers roused the crowd with speeches, including CGRO chief Tom Warner, who declared “Ken Campbell of Renaissance wants the schools to return to the three R’s. For him that means Religion, Reaction, and Repression.” Perhaps more eloquently, he declared “ignoring Anita Bryant is like trying to ignore syphilis. The longer you ignore it, the worse it gets.”⁵³ The following night, during Bryant’s performance at the People’s Church, 500 queers travelled to the “heteroburbia”

⁵⁰ “Anita preaches as homosexuals march,” *Toronto Star*, January 16, 1978: A2.

⁵¹ “Know your enemies,” *Body Politic*, February 1978: 7.

⁵² “Bigots import Bryant: Women, gays and youth unite in protest,” *Body Politic*, February 1978: 6.

⁵³ “Resistance,” *Body Politic*, February, 1978: 6.

of North York to protest, where activists Chris Bearchell and Fiona Rattray occupied a subway car, singing “I’m just a typical Canadian dyke from a typical Canadian town ... I’m a lesbian and I don’t need men... Who try to put me down.”⁵⁴ One of the protest marshals was quoted in the *Globe and Mail* saying, “Anita Bryant probably doesn’t know it, but she’s doing us a favor.”⁵⁵

That favour was uniting the community in the wake of the divisive “Men Loving Boys Loving Men” article. Writing in the *Body Politic* after the Bryant protests, Bearchell noted that Bryant’s beliefs concerning gay men were anchored in the same way as her views on women, and this had an effect of uniting sexual liberationists with feminists, particularly since Bryant was an avid pro-life activist.⁵⁶ As part of the Saturday protest, the demonstrators were led by feminist marshals, who brought the crowd to McMurtry’s office, where they chanted, “Defend the *Body Politic*! Drop all charges!” This was alternated with, “Women and Gays and Children Unite, Same Struggle, Same Fight.” The *Body Politic* reported that there was a “surprising absence (or cautious suppression) of visible antifeminism among the hundreds of gay men experiencing lesbian leadership for the first time.”⁵⁷ By mid-January 1978, it was evident that the queer political community in Toronto was maturing, but it was also clear that they were being placed under greater police surveillance.

Spaces of Surveillance: Bathhouse Business in Toronto in the 1970s

Through the 1960s and 1970s, a visible social and commercial gay district developed in Toronto. Kinsman has argued that as sexual liberation urged homosexuals to “come out,” it reoriented the meanings of sexual identity. Sexuality was no longer a hidden secret that comprised a small portion of one’s life, instead, sexuality became a lived experience, not only in bedrooms, but “through a process of

⁵⁴ Ibid.

⁵⁵ Margaret Mironowicz, “Out of the bars and into the streets,” *Globe and Mail*, January 16, 1978: 5.

⁵⁶ Chris Bearchell, “Confessions of a Lunchroom Subversive,” *Body Politic*, February 1978: 15. Also in Ed Jackson and Stan Persky, *Flaunting It! A Decade of Gay Journalism from the Body Politic*, Vancouver: New Star Books, 1982: 75.

⁵⁷ “Resistance,” *Body Politic*, February 1, 1978: 6.

social organization ... [of] bars, clubs, baths, restaurants,” and other social networks.⁵⁸ The message of liberation meant that queers developed a social consciousness in tandem with their sexual identity, but the actual practical organizational work of liberationists also affected community neighbourhood development. Warner argued that liberationists were “victims of their own success:” the constant political and social organizing by these activists fostered community visibility, which in turned created a profitable, exploitable market.⁵⁹ Political movements helped shape the Toronto queer community, but this was only one factor.

Economic forces of the 1960s and 1970s created opportunities for queer people to live and work in areas surrounding Toronto’s downtown core. According to Catherine Nash,

The emergence of gay and lesbian districts in downtown areas of North American cities owes a great deal to the larger economic forces at play during the 1970s, when gays, and to a lesser extent lesbians, found opportunities for congregation during the urban economic restructuring experienced in mature industrial cities during this period.⁶⁰

In Toronto, this visibly queer district was centred on Yonge Street between College and Bloor. There were bars and dance clubs including the 511, the Quest, Club Manatee, the St. Charles, and the Parkside.⁶¹ These spaces were met with tacit approval from the growing queer political movement, in which both moderates and radicals viewed the gay commercial district as a “necessary evil,” but a “marginal ghetto” which segregated “homosexuals from mainstream society.”⁶² Nash’s work on lesbians in Toronto suggests that the commercial district was not the primary locality for queer women in the 1970s. Instead, lesbians were organized through “social networks in distinctive ways,” which did

⁵⁸ Gary Kinsman, *The Regulation of Desire: Homo and Hetero Sexualities*, Montreal: Black Rose Books, 1996: 297-298.

⁵⁹ Warner, *Never Going Back*, 86.

⁶⁰ Catherine Nash, “Consuming Sexual Liberation: Gay Business, Politics, and Toronto’s Barracks Bathhouse Raids,” *Journal of Canadian Studies*, 48:1 (2014): 84.

⁶¹ Warner, *Never Going Back*, 85.

⁶² Nash, “Consuming Sexual Liberation,” 89.

not translate into commercial “visibility.”⁶³ The creation of gay-owned, for-profit, male-only spaces grew through the 1970s, with gay bathhouses being central to that expansion: in the early part of the decade, there was the International Steam Baths, the Romans, the Library, the Terminus, and the Oak Leaf. Three more bathhouses opened by 1981. Bathhouses were not only places to have sex, they carried meanings within the community far beyond the walls of a sauna.

Nash described a conflict between the *Body Politic* and the owners of several gay bathhouses in the wake of an article published in 1974 by Gerald Hannon, in which he argued that convicted pedophile John Roestad’s “sexual preferences are as legitimate and as potentially fulfilling as your own.”⁶⁴ In addition to being met with criticism in the mainstream media, some members of Toronto’s gay and lesbian political community distanced themselves from the piece, including CHAT.⁶⁵ Appearing beside Hannon’s article was an advertisement for two of Toronto’s bathhouses: the Barracks and the Library. The owners of these places pulled their advertising from the *Body Politic*, and the Romans bathhouse followed suit. The *Body Politic* reacted with ambivalence, stating “ads from these establishments were becoming contentious both within the Collective and among our readers.”⁶⁶ According to Nash, while liberationists later came to view bathhouses as important to “gay male social life and community building,” they initially viewed these spaces and their owners as exploitive.⁶⁷ The gay business owner who led the advertising boycott against the *Body Politic* in 1974 was Peter Maloney.

Maloney grew up in Montreal during the 1960s, where he was inspired to join politics as a result of the Liberal Party’s 1968-9 Omnibus Bill. He maintained a membership in the Liberal Party, and was active in youth politics until he moved to Toronto’s gay neighbourhood in 1970. He worked at the

⁶³ Catherine Nash and Andrew Gorman-Murray, “Lesbians in the City: Mobilities and Relational Geographies,” *Journal of Lesbian Studies*, 19:2 (2015): 176.

⁶⁴ Gerald Hannon, “Outrage,” *Body Politic*, September/October 1974: 10.

⁶⁵ “Homosexuals: Where The Star draws the line,” *Toronto Star*, October 19, 1974: B2.

⁶⁶ “Advertisers desert The Body Politic,” *Body Politic*, November/December 1974: 7.

⁶⁷ Nash, “Consuming Sexual Liberation,” 92.

Toronto Stock Exchange and won the provincial Liberal Party nomination to run as the candidate in the riding of St. George for the 1971 election. Although he was acclaimed for the nomination, internal “backroom pressures” from the Liberal Party almost prevented his candidacy.⁶⁸ According to Maloney, these pressures were due to Liberal Party concerns over his sexuality.⁶⁹ His Progressive Conservative opponent, MPP and Attorney-General Allan Lawrence, was not prepared to allow Maloney to keep his sexuality private for the duration of the campaign. The *Globe and Mail* approached Maloney to let him know that Lawrence was outing him to community leaders and social clubs, and that Lawrence would make a statement that “a homosexual is as dangerous as a man with a loaded gun.”⁷⁰ At Maloney’s request, the *Globe’s* editorial, entitled “Whispering Campaign,” did not include any mention of homosexuality, but it was a scathing rebuke of the Progressive Conservative. They declared, “Mr. Lawrence seems to have realized that in the heat of battle he lost his head and yielded to a radicalism that was uncharacteristic.”⁷¹ Maloney lost the election and sought ways to pay his considerable campaign debt.

Maloney was first exposed to bathhouse culture in the early 1970s, and remembers thinking, “it was a wonderful place to get laid.”⁷² He found an advertisement in *The Advocate*, a gay and lesbian magazine in the US, for an opportunity to open a franchise for the Club Baths bathhouse chain. Having been a patron of the Library Steam Baths, Maloney had a firm idea of what kind of bathhouse he wanted to create and he sought to bring this vision to Toronto as part of the Club Baths chain. He drew up detailed business plans, floorplans, a budget, and was flown by the owners to Miami to make the pitch. He met with Jack Campbell and Ray Diemer (Club Baths owners), who were both familiar with Toronto’s market potential, and they agreed to invest \$40,000 in Maloney’s plan. Although he did not invest any

⁶⁸ “New candidate cites ‘backroom pressures’, *Globe and Mail*, February 23, 1971: 5.

⁶⁹ Interview with Peter Maloney, October 11, 2013, November 10, 2013.

⁷⁰ Ibid.

⁷¹ “Whispering campaign,” *Globe and Mail*, October 8, 1971: 6.

⁷² Ibid.

money, Maloney was given a 25 percent share in the Toronto Club Baths as “sweat equity.” The Toronto Club Baths was a popular and successful venture, mainly due to the innovations crafted by Maloney. One was that the baths hosted a weekly “porn night,” where popular gay pornography titles (including the 1971 *Boys in the Sand*) were shown on TV screens throughout the bathhouse. Maloney also wanted to create a unique front-of-house café where patrons could casually socialize in a relaxed atmosphere.⁷³ The success at the Toronto location inspired Maloney, Diemer, and Campbell to invest in locations in Ottawa and Montreal.

While Maloney was enjoying success expanding the Canadian version of the Club Baths bathhouse chain, some of his Toronto friends were eager to join Maloney as investors. While travelling to Montreal to establish the Club Baths location there, Maloney noticed a classified ad in a local paper advertising a business opportunity at a Finnish Sauna on Widmer Street. Among the investors who joined Maloney in acquiring this space was Peter Bochove, who would later found the Richmond Street Health Emporium, and Spa Excess. Maloney’s Club Baths gained notoriety for providing a relaxed social space for gay patrons, but this new crowd-sourced bathhouse needed to be a unique concept. So it was created to cater to those who enjoyed sadomasochism. The darker-themed bathhouse was opened as The Barracks in mid-1974, and included opportunities to purchase sadomasochistic gear including dildos, whips, chains, and other related items. While financially successful, business issues and personality conflicts between Maloney and the other investors interfered with his enthusiasm. The most pressing reason for Maloney to resign from the bathhouse business was that police began to target his establishments in Montreal and Ottawa.⁷⁴

Police investigation of queers and queer spaces was not new. According to Kinsman and Gentile, the emerging liberation movement of the early 1970s was subject to RCMP surveillance.

⁷³ James Dubro, “Elegy to Club Toronto,” *Daily Xtra!* April 21, 2010.

⁷⁴ “The Police and the Press,” *Body Politic*, August 1976: 17.

George Hislop of CHAT, and the members of GATE Vancouver, were visited by RCMP officers and undercover informants starting as early as 1971.⁷⁵ This was mainly due to a fear of leftist influences within these early organizations and the fact that these groups were receiving government grants.⁷⁶ The raids targeting Maloney's bathhouses were not new to gay communities in North America. In February 1969, only a few months prior to Stonewall, members of the New York Police Department raided the Continental Baths and arrested 22 men.⁷⁷ While the Continental was raided for failing to maintain bribery payments, the raids against Maloney's bathhouses were part of a broader RCMP campaign ahead of the 1976 Montreal Olympics.⁷⁸ In February 1975, Montreal Police raided the Sauna Aquarius and charged 36 men. On January 23, 1976, 13 men were arrested at the Club Baths of Montreal.⁷⁹ In May 1976, as the Olympics drew closer, there were more raids: the Club Baths of Ottawa and Montreal were raided, with 26 men charged in Ottawa, and 24 men charged in Montreal, all under the bawdy house law.

The Montreal gay community reacted to these raids with protest, including a 300-person demonstration on June 19, 1976. This was organized by the newly formed Comité homosexuel anti-repression (CHAR), which by 1977 had transformed into the ADGQ, with Ron Dayman selected as its spokesperson.⁸⁰ On October 22, 1977 Montreal Police, armed with automatic weapons, raided a gay bar called the Truxx. This was Montreal's largest raid: 147 men were charged using the bawdy house law, eight with gross indecency, and two with drug-related offenses. This led to a protest on October 23, with over 2,000 demonstrators blocking an intersection in downtown Montreal, as well as the creation of a legal defense fundraising committee.⁸¹ The controversy surrounding this raid, coupled with the

⁷⁵ Kinsman and Gentile, *Canadian War on Queers*, 295-296.

⁷⁶ *Ibid*, 297.

⁷⁷ Carter, *Stonewall*, 116.

⁷⁸ *Ibid*, 245.

⁷⁹ Ron Dayman, "Olympics clean-up strikes again," *Body Politic*, 1 April 1976: 6.

⁸⁰ "Olympic Cleanup," *Body Politic*, 1 August 1976: 1 and 17.

⁸¹ Warner, *Never Going Back*, 108.

response from sexual liberationists, led to the Government of Quebec adding sexual orientation to the Quebec Human Rights Charter through Bill 88, which passed third reading on December 15, 1977.⁸² This prompt resolution in Quebec did not deter police agents in Toronto from investigating bathhouses, especially in the wake of the raid on the *Body Politic* in 1978.

Infiltrating and Raiding the Barracks: The December 9 Defense Fund

For this study, I had the opportunity to interview one of the Metropolitan Toronto Police officers responsible for carrying out the Barracks bathhouse raid. His perspective reveals the ways in which unrestrained gay sex was construed as a threat. In November 1978, two members of the plainclothes unit working out of 52 Division had a meeting with their Staff Sergeant: a report from the Intelligence Bureau suggested that widespread drug use was occurring in The Barracks. One of these plainclothes officers, Police Constable (PC) Greg Matthews, (a pseudonym) agreed to discuss this experience with me. The Intelligence Bureau report of drugs in the Barracks spurred a four-week investigation by Matthews and his partner. The results of their investigation led to what would become the first major bathhouse raid in Toronto's history. I was inspired by the work of Marcel Martel in preparing for my interview with the officer. In Martel's examination of RCMP undercover investigations on hippies, he argued that officers gathered information that could be used to construct hippies as a cultural, social and political threat.⁸³ The sadomasochistic gay sex occurring in groups at the Barracks was similarly seen by Matthews and his fellow officers as a threat to morality.

The investigation of the Barracks follows an extensive history of the policing of vice. Martel argued that in the late 19th century "there was an ongoing struggle between moral reformers and law enforcement agencies."⁸⁴ In some cases, police agencies adopted policies of toleration or ignorance

⁸² Ibid, 149.

⁸³ Marcel Martel, "'They smell bad, have disease, and are lazy': RCMP Officers Reporting on Hippies in the Late Sixties," *Canadian Historical Review*, 90:2 (2009): 217.

⁸⁴ Martel, *Canada the Good*, 59.

until they were “suddenly zealous” in the wake of some form of moral panic.⁸⁵ In the aftermath of the Jaques murder, moral panic called for greater scrutiny of the gay ghetto. Complex surveillance techniques have been used by Toronto Police specifically since the 1890s, when the Morality Department utilized the newly adopted, and broadly-defined gross indecency law to investigate men who had sex with other men.⁸⁶ According to Stephen Maynard, the Morality Department’s use of surveillance of gay sex in early 20th century Toronto was, “in miniature form ... an example of what Foucault called ‘hierarchal observation.’”⁸⁷ Foucault argued that “power has its principle not so much in a person as in a certain concerted distribution of bodies, surfaces, lights, gazes; in an arrangement whose internal mechanisms produce the relation in which individuals are caught up.”⁸⁸ In this perspective, PC Matthews is not cast as a villain. Instead, I seek to understand the systems of power that brought him to the Barracks in the first place, and the methods of surveillance he was tasked to use once he was inside.

In late Fall 1978, Matthews and his partner walked up to the main entrance of the Barracks, located at 56 Widmer Street in what is now Toronto’s entertainment district. Immediately after they entered, they encountered a locked door directly ahead of them. To their left was a service window where a staff member of the Barracks checked identification and collected an entrance fee from each patron. There were several options available: one could either rent a locker to store their clothing and other belongings, or they could pay an additional premium to rent a room. Matthews and his partner opted to rent a room as a ‘home-base’ for their reconnaissance operation. They paid their fee, received towels from the clerk, and were allowed to enter the second door leading them into the dimly-lit bathhouse.

⁸⁵ Ibid.

⁸⁶ Steven Maynard, “Through a Hole in the Lavatory Wall: Homosexual Subcultures, Police Surveillance, and the Dialectics of Discovery, Toronto, 1890-1930,” *Journal of the History of Sexuality*, 5:2 (1994): 223.

⁸⁷ Ibid, 225.

⁸⁸ Michel Foucault, *Discipline and Punish: The Birth of the Prison*, New York: Vintage Books, 1977: 201.

As they entered, to their immediate left was a lounge where men could relax, purchase a snack, talk to fellow patrons, or buy a sex toy to enhance their experience. The fact that the Barracks and the Club Baths both had a lounge area as part of the bathhouse demonstrates that space was required to facilitate non-sexual social contact. Sex was the primary purpose of a bathhouse, but it was not the only purpose. These spaces were totally uninteresting for Matthews and his partner because they were located so close to the bathhouse employees. This fact demonstrates Foucault's idea around the "distribution of bodies, surfaces, lights, gazes." The gaze of the undercover police officer was not the only controlling moral force within the Barracks. The employees enforced a moral code in an effort to protect their business from the very operation being conducted by Matthews, including banning alcohol, drugs, and prostitution, as well as ensuring everyone on the premises was at least twenty-one years old. These rules were enforced by bathhouse employees to the best of their ability.⁸⁹ It was not until deeper into the bathhouse that Matthews would find evidence of criminality.

As they proceeded, they walked by the locker area and the first set of private rooms. The rooms were quite small: Matthews estimated the dimensions to be roughly four feet by eight feet. The amenities were exceptionally simple: a single bed, side table, and in some cases, a safe for storing valuables. Locker space was sold at a cheaper rate, and was used by men who were seeking a partner who had already rented a room, or they would engage in sex in one of the communal areas. Approaching someone in a bathhouse was not necessarily an easy task, particularly for first time patrons. Outside of the lounge or private rooms, verbal communication was quite limited. There was an unwritten code of behaviour, which developed into a culture of hooking up and connecting with other men. Inside the walls of the Barracks, the world operated in a different way: sexuality was significantly more fluid, casual sex was the norm, and notions of monogamy or respectability had little, if any, place.

⁸⁹ Interview with Tony Fay, March 5, 2016, March 2016.

Nonverbal communication involved looking and touching. Cruising the hallways and making eye contact through the various rooms was one way to express interest, but also a slight touch or hand on the leg or shoulder was another way to show desire. Cruising happened in all areas of the bathhouse: up and down the hallways, in the shower, the lounge, the locker room, and in the private rooms. Cruising private rooms involved walking around the corridors looking for a room with a door open, which signalled an invitation to enter. Touching as a means to initiate sexual contact happened in the communal areas of the bathhouse, such as the shower, the dark room, the lounge, or in the case of PC Matthews, in the sauna. It was in the sauna that Matthews was first approached by one of the bathhouse patrons. When one patron put his hand on Matthews' leg, the professional undercover agent calmly and gently removed the hand. This was a universal sign that the interest was not returned.⁹⁰

The two agents were instructed by their Staff Sargent to look for drugs and trafficking because they had received a tip from the Intelligence Bureau. Matthews remembered that they were searching for amphetamines. According to Stuart Henderson, speed was an issue in Toronto for drug enforcement officers, as this was the primary drug that caused a moral panic surrounding Yorkville in the 1960s.⁹¹ After thirty minutes of roaming the Barracks, the two officers were unable to find any evidence of drugs, drug trafficking, or prostitution. They did find evidence of marijuana, but this was a drug that they "found everywhere" and if they were to raid any place that had marijuana, they "would have to raid every hotel and motel in Toronto."⁹² On their second visit to the Barracks they still could find no

⁹⁰ Several of the men I interviewed for this dissertation had experience in bathhouses in the 1970s. The description of bathhouse culture and etiquette stems from these rich and interesting interviews, including the descriptions given by 'an outsider': PC Matthews.

⁹¹ See Stuart Henderson, "Toronto's Hippie Disease: End Days in the Yorkville Scene, August 1968," *Journal of Canadian Historical Association*, 17:1 (2006): 205-234.

⁹² Interview with PC Matthews (pseudonym), March 3, 2014,

evidence of these illicit vices. It was at this point that Matthews was instructed by his superiors to look for acts of indecency.

There was no difficulty finding acts of indecency in the Barracks. Nash argued that the Barracks was specifically targeted due to its reputation for sadomasochistic kink, including the use of leather, denim, chains, whips, and restraints.⁹³ There was some level of uncertainty among the observing officers, and their superiors, over what types of acts could be considered indecent by a court. In general, any instance of two men having sex by themselves in a private room with the door closed was considered protected by the gross indecency exception clause, so these acts were of no concern for the officers. Any sex in a communal space, including a sauna, dark room, or shower room, and any sex in a private room with the door open, was considered an act of indecency. The officers observed several instances of these types of acts through their four-week investigation. Any sex involving more than two men was considered indecent, and they observed this on several occasions. This was considered an act of indecency regardless of whether the door was open or closed. There were also instances of men laying in a private room, by themselves, with the door open while masturbating: this was indecent as well. Finally, any use of whips or other kinks were considered to be indecent, and while Matthews did not see these instruments being used, he was able to hear them.⁹⁴ Through several visits they gathered enough evidence of indecent acts to make the case that the Barracks was a common bawdy house.

Matthews and his partner entered the bathhouse for their last visit in the early morning hours on December 9, 1978. As they entered just after midnight, the two undercover officers repeated the steps taken on their other previous visits. They rented a room, adorned their towels and wandered around the bathhouse, searching for the same acts of indecency they had encountered before. Once they had discovered these same acts taking place, Matthews walked to the front door, opened it despite

⁹³ Nash, "Consuming Sexual Liberation," 83; Interview with Peter Maloney, October 11, 2013.

⁹⁴ Interview with PC Matthews (pseudonym), March 3, 2014.

protest from one of the Barracks employees, and signalled to a group of twenty police officers waiting outside. During this preplanned raid, 23 men were charged with being found in a common bawdy house, and three of the Barracks employees were charged with the more serious offense of keeping a common bawdy house.⁹⁵ Two more owners were charged with being keepers a few days later on December 13th, for a total of 28 charges.

There were reports of extensive damage done to the premises, including six doors that had been kicked in, as well as holes in the drywall.⁹⁶ In Matthews' recollection, the raid was conducted in an orderly fashion, with nothing out of the ordinary taking place. He also recalled that while the raid was loud and startling to some of the patrons, there were no resisters and everything went according to police plan and protocol.⁹⁷ However, the *Body Politic* reported that one of the Barrack's employees was threatened with a gun, and was restrained with a knife to his throat.⁹⁸ This raid was "the first organized police assault on a gay bath in the city's history."⁹⁹ What Matthews and the other officers did not predict, however, was that after the raid the community rallied in support of the Barracks and the men charged.

In the afternoon of December 9, hours after the raid, several unlikely allies convened a meeting at Peter Maloney's residence at 320 St. George Street. At this meeting business owners including Maloney and Hislop, bathhouse patrons charged during the raid, and members of the more radical *Body Politic* gathered in unity to confront the situation. This group came to the conclusion that they needed to increase public political pressure on the police, but in order to do so, they required a mandate from the broader gay and lesbian community. They planned a meeting at the Church Street Community Centre at 519 Church Street, which was held on Monday December 11. Despite a debate over tactics

⁹⁵ "Whips, Chains and Sex Aids Found – 26 Males Charged," *Toronto Star*, December 11, 1978: B11.

⁹⁶ Paul Trollope, "Toronto cops raid gay bath, charge 28 men," *Body Politic*, February 1979: 12-13.

⁹⁷ Interview with PC Matthews (pseudonym), March 3, 2014.

⁹⁸ Trollope, "Toronto cops raid gay bath," 12.

⁹⁹ *Ibid.*

and priorities at this meeting, the community emerged with a plan to host a press conference on Tuesday December 12, and to hold a rally on Saturday December 16. In addition to holding these public events, the meeting also decided to start raising funds to provide for legal fees to those charged. They called this initiative the December 9 Defense Fund.

The creation of a legal defense fund was not a new invention for Toronto activists in 1978. Among the earliest organized legal defense organizations was a resistance to prohibition in the U.S. during the 1850s, where brewers, wineries, and liquor dealers created associations to raise funds to constitutionally challenge temperance legislation.¹⁰⁰ The Legal Defense and Education Fund (LDF) was a group initially created by Charles Hamilton Houston of the National Association for the Advancement of Colored People (NAACP) in the 1930s. Interest groups such as the NAACP employed courtrooms as political spaces, particularly when their otherwise unpopular goals could be translated into a legal argument.¹⁰¹ Thurgood Marshall, another prominent civil rights lawyer, continued these legal efforts started by the NAACP as they argued that the legal system could be a tool for “social engineering.”¹⁰² Homophile groups in the 1960s were inspired by these efforts and created the National Legal Defense Fund (NLDF).¹⁰³ Locally, Toronto activists created the Committee to Defend John Damien in February 1975, and in early 1978 there was the Body Politic Free the Press Fund, which raised funds to defend against obscenity charges stemming from Hannon’s infamous article. The creation of the December 9 Defense Fund paired legal fundraising with direct political protest and was inspired by decades of civil rights activism.

¹⁰⁰ Kyle G. Volk, *Moral Minorities and the Making of American Democracy*, New York: Oxford University Press, 2014: 185.

¹⁰¹ Steven C. Tauber, “The NAACP Legal Defense Fund and the U.S. Supreme Court’s Racial Discrimination Decision Making,” *Social Science Quarterly*, 80:2 (1999): 326.

¹⁰² Joseph Mosnier, “Crafting law in the Second Reconstruction: Julius Chambers, the NAACP Legal Defense Fund, and Title VII,” PhD Dissertation, University of North Carolina at Chapel Hill, 2005: 128.

¹⁰³ Marc Stein, *Sexual Injustice: Supreme Court Decisions from Griswold to Roe*, Chapel Hill: The University of North Carolina Press, 2010: 152.

Don Franco Part I: Advocating for a Right to Privacy

For a brief moment after the December 9 raid, the Toronto queer community was united under the cause of resisting the police. At the press conference on December 12, speakers created a direct linkage between the Barracks raid and attacks on other community institutions including the *Body Politic*, and the October 1977 raid on the Truaxx bar in Montreal. They declared that “these are direct attacks on our right to exist as gay men and women, our right to have our own newspaper and our own social places, [and on] everyone’s right to make their own sexual choices.” They argued that “anti-gay bigotry hurts everyone,” and that such bigotry “also serves to divert public attention away from problems that ALL of us face – unemployment, inflation, cutbacks, military spending, etc.”¹⁰⁴ In the flyer advertising the December 16 rally, nine demands were stated that went far beyond the Barracks raid, and they were demands that united gay men and lesbians, as well as liberals and radicals. For liberationist demands, they included that “all laws against ‘victimless crimes’” be abolished. They demanded that all charges be dropped in the Barracks raid, and they also demanded that all charges be dropped in the raid against the *Body Politic* in the wake of the “Men Loving Boys Loving Men” article. Their more liberal rights-based demands were that John Damien be reinstated to his job, that there be no discrimination against lesbian mothers or gay fathers, and that sexual orientation be added to the human rights code and to all union contracts. They also demanded an end to police harassment of lesbians and gay men. Their call to action was to attend the rally, but also to donate to three defense funds: The Committee to Defend John Damien, the *Body Politic* Free the Press Fund, and the newly formed December 9 Defence Fund.¹⁰⁵ These demands were followed with direct political action a few days later. The rally on Saturday December 16 was attended by more than 400 people, who marched from the Church Street Community Centre to City Hall at Nathan Phillips Square.¹⁰⁶

¹⁰⁴ “Why we are demonstrating,” Canadian Lesbian and Gay Archives (CLGA), RTPC (1986-002), Box: 1, File: Posters. December 1978.

¹⁰⁵ “Our Demands,” CLGA, RTPC (88-011), Box: 1, File: 5. December 1978. 1657.

¹⁰⁶ “City of Toronto Permit,” Brian Mossop Personal Files, December 14, 1978.

Historian Mariana Valverde spoke at this press conference and declared, “an attack on any gay establishment is an attack on the whole gay community, and that includes lesbians.”¹⁰⁷ A flyer distributed leading up to the rally stated that although “lesbians do not use the baths and many consider the *Body Politic* to be a gay man’s newspaper ... the women here today believe that the current attacks are directed against the entire community, lesbians as well as gay men.” In a showing of solidarity, they declared that “when we defend our brothers, we defend ourselves as well.”¹⁰⁸ Valverde has recalled that this approach stemmed from the strong influence of socialist feminism in Toronto, which included a strategy of building coalitions with other groups. A contingent of socialist feminist lesbians rallied in support of the gay men at the Barracks as a form of solidarity.¹⁰⁹ According to feminist scholar Lorna Weir, socialist feminist lesbians “experienced a sharp conflict” in the mid-1970s.¹¹⁰ During this time period, liberal feminism marginalized lesbian sexuality, meanwhile radical lesbian separatists were “opposed to working with men under any conditions.”¹¹¹ Socialist feminists, including Weir and Valverde, argued that “cross-gender alliances are essential to the liberation of women because only in alliance with socialists and other progressive groups such as the peace and anti-racist movements will women be able to end class domination.”¹¹² At the rally, *Body Politic* member Tim McCaskell reinforced this notion of building solidarity within the community. He stated that the police were “trying to drive a wedge between ‘radical’ homosexuals and ‘decent’ homosexuals,” and he warned, “when you take the radical gays and the dirty gays, pretty soon you don’t have many of us left.”¹¹³

¹⁰⁷ Trollope, “Toronto cops raid gay bath,” 12.

¹⁰⁸ “Why we are demonstrating,” CLGA, RTPC (1986-002), Box: 1, File: Posters. December 1978.

¹⁰⁹ Interview with Mariana Valverde, October 12, 2016.

¹¹⁰ Lorna Weir, “Socialist Feminism and the Politics of Sexuality,” in Heather Jon Maroney and Meg Luxton, eds., *Feminism and Political Economy: Women’s Work, Women’s Struggle*, Toronto: Methuen, 1987: 71.

¹¹¹ *Ibid.*

¹¹² *Ibid.*

¹¹³ Trollope, “Toronto cops raid gay bath,” 12.

The community was further galvanized and united after it was revealed by the *Globe and Mail* on January 6, 1979 that Gary Donovan, a Staff Sargent with the Metropolitan Toronto Police, notified three school boards that four teachers had been charged in the raid of the Barracks. One of these teachers, Don Franco, notified the activists in the December 9 Defense Fund that his employer received a call from Donovan. Initially, the response from Toronto Police through Deputy Chief Jack Ackroyd was one of serious concern over the actions of their Staff Sargent. Ackroyd declared that he felt his Staff Sargent “erred in judgment” in notifying the school boards. The article noted that “Ackroyd said the only circumstances in which he could see any reason for notifying an employer that an employee had been charged would be if the offence involved the employer, such as in embezzlement.”¹¹⁴ The employers in this case, as represented by the North York School Board of Trustees, were divided on the issue. The chair of the board of trustees, Lawrence Crackower, stated that it was “an improper thing to be done. It could only have been done in a vindictive vein.” However, other trustees disagreed, and believed that the Staff Sargent (who had not yet been named in the press) “did right ... because we happen to be in the business of educating kids. If that’s where you want to go as a person, then you shouldn’t be a teacher. I think the policeman did a great job.” Another trustee said that the Staff Sargent “showed a lot of guts” by taking it upon himself to notify the board.¹¹⁵ None of the four teachers was publicly outed, and they did not face any job action as a result. This was in spite of public pressure mounted against the school boards to move the teachers out of the classroom and into a job that would not have any contact with students. Ken Campbell of the political-evangelical group Renaissance International, posed the question: “would you hire a man who had been charged as a found-in at a male bawdy house to babysit your children?” Even with such public pressure, the school board noted that “there is nothing in the Education Act that requires a school board to suspend a

¹¹⁴ James Jefferson, “Police told boards that teachers were found in gay club,” *Globe and Mail*, January 6, 1979: 1.

¹¹⁵ “Trustees divided on officer’s action in Barracks case,” *Globe and Mail*, January 8, 1979: 5.

teacher who is charged with a criminal offence.”¹¹⁶ As for the Staff Sargent, he received a slap on the wrist and was “reprimanded for being indiscreet.”¹¹⁷

Believing that this was not sufficient, five queer activists held a press conference outlining three demands: first, to establish a civilian review board for investigating complaints against police; second, to ask the Ontario cabinet move to amend the Ontario Human Rights Code to include sexual orientation; and finally, to seek a publication ban from Ontario’s Attorney-General Roy McMurtry, in order to prevent the names of those accused in the Barracks case from being published in the press, “since it is clear that their jobs and health may be endangered if their names are known.”¹¹⁸ Queer activists knew that more had to be done to pursue this issue and implement these demands. A wider response was needed, and the December 9 Defence Fund had to go forward so that those charged, especially the teachers who were outed to their employers, could mount a defence. Although the names of the teachers were never published in the media, the *Body Politic* took no issue with publishing the name of the Staff Sargent responsible for this scandal: “Staff Sargent Gary Donovan of the Metropolitan Toronto Police called three school boards in the Toronto region December 18, and informed them of the names of those teachers in their employ who had been charged in the raid.”¹¹⁹ On January 22, a public meeting of the December 9 Defence Fund was held, which elected a formal committee of activists, business owners, and found-ins.

The divisions within the community re-emerged at this first meeting of the December 9 Defense Fund. The new executive was tasked with implementing the demands and goals articulated at the press conference and rally in December. The divisions that began to emerge at this meeting mirrored those experienced by the community through the 1970s. First, in spite of Valverde’s contention that the

¹¹⁶ “Teacher suspension call rejected,” *Globe and Mail*, January 11, 1979: 4.

¹¹⁷ *Ibid.*

¹¹⁸ “Raid on homosexual club: Named teachers, policeman disciplined,” *Globe and Mail*, January 9, 1979: 5.

¹¹⁹ “Abuse of power,” *Body Politic*, February 1979: 13.

Barracks raid was an attack on the “whole” community, no lesbians or feminists were part of this new executive. The executive was a collection of gay men from various groups in Toronto, including Tom Warner from CGRO, Brent Hawkes from the Metropolitan Community Church, Brian Mossop from GATE, and business professionals Peter Maloney and Michael Laking.¹²⁰

There was a sense that the Defense Committee was elitist and professionalized, with little to no room for more radical activists. Mossop voted against one of the first divisive motions proposed at the January 22 meeting: that Morris Manning, the lawyer hired by the Barracks owners, be given \$1000.¹²¹ Queer theorist Gary Kinsman later argued that “the Right to Privacy Committee was able to draw on the valuable skills of professionals, but in such a way that these professionals were held accountable to a broad-based community organization made up of mostly working-class and street gays.”¹²² In this instance, Kinsman is referring to the RTPC as it existed after the 1981 raids, as this does not describe the Committee in early 1979. At their third executive meeting on February 16, Peter Maloney hosted the group at his residence for a question and answer session with Manning. It was clear from this exchange that Manning was operating independently of the group and would not accept any interference. Manning stated that he wanted to review press releases before they were sent: “if I disagree with a line, I’ll take it out as with emotional issues people tend to get angry.”¹²³ In its early existence, the executive was accountable to the professionals, not the other way around.

It was at this same meeting on February 16 that the executive changed the name of the group to the Right to Privacy Defense Committee, then on March 3 they settled on “the Right to Privacy Committee.”¹²⁴ At issue for Mossop was the lawyers’ assumption that the Barracks catered to “sordid,

¹²⁰ “The December 9 Defence Fund Committee minutes,” Canadian Lesbian and Gay Archives (CLGA), Right to Privacy Committee (RTPC), (1984-002), Box: 1, File: 1, February 10, 1979.

¹²¹ “Entry of January 22, 1979,” Diary, Brian Mossop Personal Files.

¹²² Kinsman, *Regulation of Desire*, 299.

¹²³ “The December 9 Defence Fund Committee,” CLGA, RTPC (1984-002), Box: 1, File: 1, February 16, 1979.

¹²⁴ “Minutes of RTPC Meeting,” CLGA, RTPC (1984-002), Box: 1, File: 1, March 3, 1979.

indecent acts” and that in the Damien case, the issue of sexuality was eliminated from the conversation by the lawyers in the case. Mossop remembers that one member at the meeting declared the name “the Right to Closetry Committee.”¹²⁵ Manning responded, “we must create the right atmosphere up to the trial and must give it some thought,” and Manning’s associate Gary Currin argued that “what we must do is to soften and defuse the issue on S&M leading up to the trial.”¹²⁶ The broadly defined right to privacy was thus an agreeable solution for the professionals in the group. Nash argued that the early “RTPC drew on the arguably more conservative privacy argument” and did not “assert either the legitimacy of gay casual sex as a form of libratory politics or its centrality in the construction of gay male collective identity and community.”¹²⁷ This strategy was adopted in part on the advice of the legal professionals who wielded a great deal of power over the Committee, and also due to the circumstances surrounding the teacher Don Franco, whose invasion of personal privacy by the police became the community rallying-cry. The discussion lasted several hours, focussed primarily on Mossop’s objections to sanitizing the sexual component of the case and another objection raised by Tom Warner. Warner’s experience on CGRO educated him on many community divisions, particularly between gay men and feminists. His objection to the name was based on a feminist critique of the “right to privacy,” which had been used by perpetrators of domestic abuse to argue that issues within the household, including violence, were of no concern for the state.¹²⁸ In spite of these objections, the name of an organization which would become one of the most powerful and controversial political groups in Toronto history was changed.

¹²⁵ Interview with Brian Mossop, February 10, 2016.

¹²⁶ “The December 9 Defence Fund Committee Minutes,” 2.

¹²⁷ Nash, “Consuming Sexual Liberation,” 96.

¹²⁸ Interview with Tom Warner, August 22, 2014.

Conclusion: The RTPC, The Community, and the Police

The RTPC was an organization created almost a decade after the birth of sexual liberation in Canada. These early years of gay and lesbian political organizing articulated a critique of Trudeau's 1969 Omnibus Bill, which only partially decriminalized homosexuality. The rise of second wave feminist consciousness altered the political relations between gay men and lesbians, and this was manifest through the various campaigns by queer groups through the 1970s. Gay men and women were divided because the movement was largely focussed on gay male sexuality, a fact that was only solidified in the wake of several articles on pedophilia written by Gerald Hannon and published in the *Body Politic*. While this was a dividing line, the attacks stemming from religious political organizers, including Anita Bryant and Ken Campbell, brought the community together to fend off a common source of oppression. Radical liberationists and moderate rights activists contested ideas of political method and ideology. The issue of racing steward John Damien losing his job with the Ontario Government rallied activists together, until the committee representing him began to hide the sexual aspect of his case from public view. The newly-formed RTPC was operating in an era when all of these debates were fresh among the relatively small group of Toronto activists.

The RTPC represented some of the resisters of social control who were organizing against the Metropolitan Toronto Police in the 1970s. The emerging gay commercial district was placed under the scrutiny of agents of social control. Undercover police officers, including PC Matthews, were instructed to investigate the city's spaces of unhindered male sexuality. His investigation illuminates what Foucault described as a moralizing gaze, where the sexual actions of men were transcribed into a discourse of criminality and indecency. When, after the raid, Staff Sargent Gary Donovan notified the employers of some of the men charged as found-ins, the community believed it was directly under attack. The RTPC was initially viewed as a unifying organization of hope. Ultimately, however, during the first two years

of its existence, the RTPC was plagued by the divisions and legacies of a tumultuous decade of queer political organizing in the 1970s.

Chapter 2 – “The Politics of Distraction:” Minority Communities and the Umbrella Effect

This new group of resisters of social control called the Right to Privacy Committee was a complex organization that faced an onslaught of controversial interactions with the police. Some of these attacks were viewed as political opportunities for action, but this shaped the ways in which the group developed their program for change. Some activists wished to see the RTPC as an open organization run by community consensus. There were also those who argued that civil disobedience was the only way to confront the police. Others swayed the RTPC toward a human rights approach that characterized the Toronto community as a legitimate political minority group. In the days leading up to the 1981 Operation Soap bathhouse raids, the RTPC had been in existence for more than two years. During this formative period, the small group of gay men active within the RTPC were embroiled in the same divisions that characterized the Toronto queer community through the 1970s.

Scholars in Canada have criticized the “minority group” approach to queer politics, suggesting that such an approach does not contest the root of queer oppression. Sociologist Gary Kinsman argued that “in transforming homosexuality into a gay identity, we may not be merely resisting oppressive classifications, we may also be locking ourselves into another minority group. This could limit our critique of sex and gender relations and paralyze our struggles over sexual definition and regulation.”¹ Instead of “minority,” Kinsman preferred the term “community,” because it denotes the “social relationship between gay and lesbian resistance and heterosexual hegemony.” This is because community is both “internally defined by the resistance of gays and lesbians to oppression,” and is “externally defined by the police, the mass media, and State policies.”² However, gay and lesbian

¹ Gary Kinsman, *The Regulation of Desire: Homo and Hetero Sexualities*, 2nd Ed., Montreal: Black Rose Books, 1996: 308.

² Ibid, 309.

activists internally defined the gay community as a “minority,” and this was, in part, due to the external forces oppressing the community in ways that were similar to ethnic minorities.

The gay-minority approach defined queer oppression in liberal terms and enabled coalition-building with ethnic groups, but this strategy has been labelled as elitist and exclusive. Kinsman argued that the gay-minority approach favours the category of ‘sexual orientation’ “over other dimensions of our experience.” This, in turn, “helps to create the basis for a professional, managerial, white, middle-class, gay stratum to speak for our community.”³ Catherine Nash explored the relationship between gay businessmen and gay liberationists, as gay business interests were keen to promote “gay commercial spaces within the gay ghetto as a central and important location for gay and lesbian political, economic, and social life,”⁴ whereas liberationists did not want to be relegated to a ghetto, firmly removed from “areas that involve young people, schooling, and family policies.”⁵ In an earlier work, Nash critiqued the transition from a liberationist agenda to a minority agenda, arguing that in the late 1970s “gay organizations redoubled their commitment to obtain human rights protection in the face of these challenges, ultimately abandoning liberationist calls for the breakdown in sex/gender roles in favour of positioning gays and lesbians as a legitimate minority group.”⁶

This chapter is the story of the RTPC in its first two years of existence. From the December 9, 1978 Barracks raid to days before Operation Soap on February 5, 1981, the RTPC was an organization in flux. As its members were confronted with external threats and internal divisions, they constantly debated the purpose and direction of the group. The strategy to define the community as a minority group was labelled by some RTPC activists as “the politics of opportunism,” where the oppressive

³ Ibid, 310.

⁴ Catherine Nash, “Consuming Sexual Liberation: Gay Business, Politics, and Toronto’s Barracks Bathhouse Raids,” *Journal of Canadian Studies*, Vol. 48, No. 1 (Winter 2014): 83.

⁵ Kinsman, 310.

⁶ Catherine Nash, “Toronto’s gay village (1969-1982): plotting the politics of gay identity,” *The Canadian Geographer*, Vol. 50, No. 1 (2006): 10.

actions of those with institutional power provided the impetus for groups to galvanize their communities and build coalitions. There were other voices in the RTPC that claimed this was the “politics of distraction,” where the goal of community legitimacy was not viewed as focussed on resisting bawdy house raids.

News and Views: The Umbrella Effect

With the minority rights approach, the RTPC adopted alliances with other groups in Toronto as part of the “umbrella effect.” This was influenced by a broader trend in queer political organizing as described by Nash, but it was also an approach that was formulated as a result of direct attacks on both the gay community and Toronto’s racial minorities, the black community in particular. According to sociologist Alan Hunt, the umbrella effect describes a pattern among social movement groups in the late 19th century who advocated for moral reform.⁷ Under the umbrella effect, these groups had a tendency to look beyond obvious differences in order to unite behind a moral cause. For Martel, the umbrella effect “refers to individuals and groups who are generally ideologically and politically opposed on issues, but who can work together and advocate a particular” social or legal change.⁸ The umbrella effect is a useful analytical tool for understanding both agents of social control as described by Hunt and Martel, and the resisters of social control that I examine in this study. In Mariana Valverde’s analysis of moral reform in English Canada, she argued that “the constant repetition of the phrase ‘disease, vice, and crime’ created a very strong ‘horizontal linkage’” between these ideas.⁹ These horizontal linkages were an important component to the moral panics of the late nineteenth early twentieth centuries that

⁷ Alan Hunt, *Governing Morals: A Social History of Moral Regulation*, Cambridge: Cambridge University Press, 1999: 9.

⁸ Marcel Martel, *Canada the Good: A Short History of Vice Since 1500*, Waterloo: Wilfred Laurier University Press, 2014: 4.

⁹ Valverde utilized sociologist David Garland’s theory of “horizontal linkages” to view moral reform movements. Mariana Valverde, *The Age of Light, Soap, and Water: Moral Reform in English Canada, 1885-1925*, Toronto: University of Toronto Press, 2008: 133; David Garland, *Punishment and Welfare: A History of Penal Strategies*, London: Gower, 1985: 177.

resulted in legislative and cultural change.¹⁰ They were also evident in 1970s Toronto: with the proliferation of social movement groups of the 1960s and 1970s, including the RTPC, the linkage of disease, vice and crime by agents of social control brought various interests together. The RTPC worked with other groups in 1979 to confront an issue of mutual concern: the police.

When the December 9 Defense Fund became the RTPC, the strategy adopted by the new group was to send a small delegation led by Peter Maloney to meet with the Metropolitan Toronto Board of Commissioners of Police (the Commission). They were aware of two important upcoming civic meetings involving the police: a Budget Sub-Committee of the Metropolitan Toronto Executive Committee (Budget Sub-Committee) on March 9, and a meeting set for April 5 with the Commission in response to demands from the RTPC in the wake of the Gary Donovan incident (Don Franco Part I).¹¹ The RTPC began preparations to research the budget, and to organize a community meeting for March 20 to build a list of demands to present to the Board of Commissioners of Police on April 5.¹² Their plan was built on three objectives: to reform police policies toward the gay community, to seek the outright dismissal of Staff Sergeant Gary Donovan, and to cast a light on the police budget.¹³ In the brief to the Budget Sub-Committee, Maloney declared that the gay community was “a target group in order to maintain [policing] staff complements and budgets,” and that “intelligence bureau funds and staff time [were] being used to collect and disseminate information about gay people.”¹⁴ He stated that Toronto’s gay community represented “a sizeable minority of voters and taxpayers in the city and the boroughs.”¹⁵ The brief also made the assertion that there was a “parallel between our concentration and dispersion

¹⁰ Valverde, *The Age of Light, Soap, and Water*, 99.

¹¹ “Letter from Metropolitan Toronto Board of Commissioners of Police to RTPC,” CLGA, RTPC (1984-002), Box: 1, File: 7 – Correspondence: March 1, 1979.

¹² “The Right to Privacy Defence Committee – Minutes of meeting on March 3, 1979,” CLGA, RTPC (1984-002), Box: 1, File: 1.

¹³ “Funding the defence,” *Body Politic*, February 1979, 13.

¹⁴ “Submission on the Police Budget by the Right to Privacy Committee to the Budget Sub-Committee of Metro Executive Committee,” CLGA, RTPC (1984-002), Box 1, File: Submission on the Police Budget, March 9, 1979: 3.

¹⁵ *Ibid*, 2.

in Metro as not unlike that of ethnic or racial minorities,” and that “for every gay person in the city there are mothers, fathers, brothers, sisters, aunts and uncles as well as friends and colleagues who feel affected by what happens to gay people.”¹⁶ At this stage, this rhetoric around minority rights was a minor detail in a much broader argument about the police budget.

Peter Maloney and the rest of the RTPC conducted research on the police budget and noted some important changes that occurred in the mid to late 1970s. These changes meant that the intelligence and morality divisions of the department had seen a significant increase in funding, and yet by 1978 much of the impetus for those increases had subsided. With the Yonge Street “clean up” deemed a success, the raid on the Barracks was viewed by the RTPC as a method by police agencies, such as Morality and Intelligence, to justify their budgets. For instance, Maloney noted that in a review of 1977, numerous “Body Rub parlours operating on Yonge Street” resulted in the “establishment of a special task force which was responsible for a large number of arrests.”¹⁷ A year later, a similar report declared that the police had shut down every single illegally operated body rub parlour on Yonge Street, and that “as a result of a strong police presence, many prostitutes left the area.”¹⁸ Not only did this serve as a justification in the amount of money spent, it also necessitated the continued presence of these officers to ensure Yonge Street remained clean. Maloney declared in his brief:

The conclusion might well be drawn from these reports that a great deal of police manpower, and womanpower, was brought into play to achieve these objectives. Now that the largest part of the task has been done, are there remaining elements of this manpower which are trying to perpetuate themselves? Is someone trying to “prove” a “need” for continued staffing and funding? Is someone in some group within the force turning their attention to the gay community as an easy target to maintain arrest records and high visibility prosecutions?¹⁹

¹⁶ Ibid.

¹⁷ Ibid, 4.

¹⁸ Ibid.

¹⁹ Ibid.

While Maloney's opening statement referred to a "gay minority," the primary focus of his brief was on the issue of police targeting gay people. It was not until after this brief that Toronto's queer community was directly and flagrantly attacked alongside visible minorities by members of the police.

Eleven days after the RTPC's submission on the police budget the *Toronto Star* revealed the existence of two inflammatory articles in *News and Views*, the monthly newsletter of the Metropolitan Toronto Police Association. The first, entitled, "The Homosexual Fad," was a diatribe against Toronto's emerging queer community. The article, published in the March 1979 edition, was written by Staff Sergeant Tom Moclair of Metropolitan Toronto Police's 14 Division. He reviewed some of the main controversies surrounding the queer community in Toronto from his own perspective. Moclair attacked Mayor John Sewell for his support of the gay and lesbian political community, explicitly arguing that "'gays,' 'fags,' and 'fruits,' ... provide us with a vivid example of how far we in Canada have gone down the "road to debauchery," and he referenced the *Body Politic* article "Men Loving Boys Loving Men," for which he generalized: "many of them tell us there is nothing wrong with defiling and seducing young boys."²⁰ In his concluding remarks, Moclair described homosexuals as a threat:

The one thing that can turn a homosexual into a patient is social rejection and disapproval. This might mean a little suffering, but pain is sometimes good because it signifies disorder and disease. Nobody knows himself until he has suffered. It's a hard law but a supreme law. Stilling pain without treating the disorder can be deadly. This type of disorder seems to be clearly infectious.²¹

Moclair was initially caught off guard by the attention his article garnered, questioning *Toronto Star* reporter Alan Christie, saying "oh dear, you're not going to publish this, are you?"²² As a police officer,

²⁰ Tom Moclair, "The Homosexual Fad," *News and Views* – Newsletter of the Metropolitan Toronto Police Association, March 1979: 10.

²¹ *Ibid*, 11.

²² Alan Christie, "Police paper branded racist, bigoted in articles on homosexuals, blacks," *Toronto Star*, March 20, 1979: A4.

he had history interacting with members of the gay community. In 1968 he had faced a civil suit “by a man who claimed he lost the sight of his left eye” when he was struck in the face. Moclair had been escorting the man from the St. Charles Tavern on Hallowe’en, a night of festivities for Toronto’s newly-forming gay scene.²³ In spite of the outrage over his March 1979 article, Moclair was unapologetic. He stated that his only regret was that his views were made public and not restricted to the members of the police force, thus “embarrassing” the police department.²⁴ With *News and Views* in the spotlight, another controversial article from a previous edition came to light.

In the December 1978 edition of *News and Views*, an article by retired police officer Ken Peglar, entitled “Pensioners News,” linked the decay of society to both the homosexual community and the city’s minority communities. What begins as a plan that “has to do with the economy” to cap all income at \$25,000 quickly turned into a diatribe against various groups. First, Peglar targeted women by making the claim that “Women’s Lib is still hard at it; females are still clambouring [*sic*] to be garbage collectors and telephone line-persons and grease monkeys.” Of Toronto queers, he surmised, “Homo- and bi- and trans- and all kinds of sexuals are not slacking off one bit. I suppose if you’re not one its [*sic*] pretty hard to really get into it.”²⁵ It was Peglar’s racist comments that caused the most outrage. In a diatribe on minority groups, he lamented the encroachment on his white spatial privilege, stating “I think it’s about time somebody did something to protect us WASPS from all these other ethnic groups in Metro. After all, we’re a minority group now.” He targeted Italian and Polish minorities, and, he declared, “if you want a laugh, drive over to Glencairn and Bathurst and see the Jews, their Oldsmobiles. Its better than a Frank Sinatra special.”²⁶ The two articles proved controversial to the point that Metropolitan Police

²³ “Down memory lane,” *The Body Politic*, November 1979: 15.

²⁴ Christie, “Police paper branded racist,” A4.

²⁵ Ken Peglar, “Pensioners’ News,” *News and Views* – Newsletter of the Metropolitan Toronto Police Association, December 1978: 10.

²⁶ *Ibid*, 11.

Commission chair Philip Givens was forced to respond while on vacation in Florida.²⁷ The official response, which came from the police chief, was not enough to dissuade a call for further action on police reform from both the RTPC and from Toronto's various visible minorities.

On March 28, 1979, Hal Connolly, President of the Metropolitan Toronto Police Association, and Police Chief Harold Adamson released press statements addressing the *News and Views* controversy. In Connolly's response, the Police Association was more concerned with being perceived as racist, while Moclair's homophobia went completely unacknowledged: "we do not condone racism, bigotry or any form of prejudice against any minority group."²⁸ Although Connolly conceded that the police union needed to exercise "more editorial control over any future articles to be published in *News and Views*," most of his press statement was defensive. For one, he stated that *News and Views* was meant to be "an entirely in-house publication," where controversy was being created merely as a result of misinterpretation. He stated that he regretted "that some people in our community have interpreted the two articles to reflect" on all Metropolitan Toronto Police officers. The press statement concluded with a comment on how Metropolitan Toronto Police had recently unveiled a "multi-cultural course" aimed at establishing "better relations and understanding with minority groups."²⁹ At the same time, Police Chief Harold Adamson issued his own response to the crisis.

The purpose of the response by Chief Adamson was to defend Moclair and to put the issue to rest as quickly as possible. He stated in his press release that the articles in *News and Views* "had an unsettling and disturbing effect on many people in this community," and that "remarks of the nature of those expressed by Staff Sergeant Moclair have an adverse effect on the ability of the police to do their

²⁷ Christie, "Police paper branded racist," A4.

²⁸ Hal Connolly, "Press Release of the Metropolitan Toronto Police Association," CLGA, RTPC (1984-002), Box: 1, File: 1, March 28, 1979.

²⁹ Ibid.

job.”³⁰ In spite of this, Adamson labelled Moclair a “dedicated and capable officer,” who had an “impeccable record.” He also stated that Moclair was “deeply disturbed” and that in Adamson’s interview with him, he “regretted any embarrassment” he caused to the police force. There was no mention of homophobia in either Chief Adamson or union president Connolly’s response; the issue was restricted to racism, embarrassment, and the fact that *News and Views* was never meant to be public. In both statements, it was clear that the police department and the union were uncomfortable with the articles written by their members, but at the same time they were not eager to face the issue head on, nor were they willing to declare any sanctions against Moclair or Peglar. In the *Toronto Star* the following day, an editorial declared that “the incident can now be considered closed.”³¹ However, an article appearing in the *Globe and Mail* featured a response by RTPC activist Brent Hawkes, who argued that both statements were “insufficient ... because neither dealt with the question of official attitudes toward sexual orientation.”³² It was the intention of both the Chief of Police and the Police Association to focus solely on the racist sentiments in Peglar’s article. They did not anticipate that the political leaders of Toronto’s racial minorities would recognize a common interest with Toronto’s maturing gay and lesbian political community.

The *News and Views* controversy combined racism with homophobia, which provided an opportunity for the RTPC to make new allies under the umbrella effect, and to situate the queer community as a minority group in their interactions with city officials. On March 26, over 500 people attended a public meeting at City Hall held by Reform Metro, a leftist coalition advocating on city issues. In attendance at the meeting was a variety of groups from across Toronto, including groups representing racial minorities, gays and lesbians, women, civil liberties associations, school board trustees, city

³⁰ Harold Adamson, “Press Release of the Metropolitan Toronto Police,” CLGA, RTPC (1984-002), Box: 1, File: 1, March 28, 1979.

³¹ “Police association clears the air,” *Toronto Star*, March 29, 1979: A8.

³² “Adamson, police union head apologize for 2 articles,” *Globe and Mail*, March 29, 1979: 5.

councillors, native groups, political parties, and labour activists. This umbrella organization called itself the Working Group on Police-Minority Relations (Working Group), and they elected civil rights activist and black community leader Bromley Armstrong as chairperson. They also drafted a series of 10 demands to be taken to the Metropolitan Toronto Police department in the wake of the *News and Views* article.³³

Bromley Armstrong, who served on the Ontario Human Rights Commission, was best positioned to take up this issue on behalf of this broad coalition and present a series of reasoned demands to Metropolitan Toronto Police. Armstrong was an established human rights activist in Ontario where he helped in the campaign to bring about fair practices legislation as a result of a controversy at a diner which refused to serve black patrons in Dresden in the 1950s. He also had a history with Toronto police even before the *News and Views* issue in March 1979. In 1962, Armstrong helped found the Jamaican Canadians Association (JCA).³⁴ He and other members of the JCA were convinced that they were under surveillance by the Metropolitan Toronto Police. In one instance, they believed their phones were tapped. In another, they believed a white police officer with Toronto Police joined the JCA in order to receive the group's correspondence.³⁵

Armstrong was critical of police in the wake of the August 1978 shooting of Buddy Evans, a 24-year-old black man from Nova Scotia. Buddy and his brother, Preston, were involved in an altercation with the bouncer at a Toronto bar called the Flying Disco Tavern, which was located at King Street and Spadina Avenue. The police claimed that Buddy assaulted the officer and was threatening the officer's life, whereas members of the black community claimed that the only reason Buddy was shot was because of his race.³⁶ This incident mobilized members of Toronto's black community: Dudley Laws, of

³³ "Minutes of Meeting for Reform Metro," Brian Mossop Personal Files, March 26, 1979.

³⁴ Bromley Armstrong and Sheldon Taylor, *Bromley, Tiresless Champion for Just Causes: Memoirs of Bromley L. Armstrong*, Pickering: Vitabu Publications, 2000: 159.

³⁵ *Ibid*, 166.

³⁶ E. Kaye Fulton, "Flying Disco closes after fatal shooting," *Toronto Star*, August 10, 1978: A3.

the Universal African Improvement Association, called for all police officers to be disarmed, and community allies, such as Alan Borovoy of the Canadian Civil Liberties Association, called for an independent investigation into Buddy's death.³⁷ Armstrong's agreement to join the chorus of groups calling for changes to Metropolitan Toronto Police caused concerns for his fellow commissioners at the Ontario Human Rights Commission. While he was allowed to be "involved in community action," he was warned that he should "slow it down a little."³⁸ In his memoirs, Armstrong stated that "anger surrounding the fatal shooting of Buddy Evans remained strong. It was a hair-raising experience for many of us, and on reflection, we felt that something had to be done."³⁹ Armstrong also wrote that the Buddy Evans shooting "galvanized" the black community, and enabled some activists to develop "a better understanding of how the system can work for or against people of colour in Canada."⁴⁰ The two controversial *News and Views* articles revealed that the gay community and Toronto's racial minorities had a common source of oppression, and so Armstrong and Maloney worked together to present a united front to the Police Commission in their meeting on April 5.

The history of police accountability in Canada is important to understanding this interaction between community members and the Police Commission. This was a uniquely Canadian interaction. According to Michael A. Goldberg and John Mercer, when we study the history of cities, we must not "blithely lump Canada and the United States into the same analytical laundry basket without proper appreciation of the diversity of the wardrobe to be laundered."⁴¹ In the history of local governance, for example, Canada has largely avoided the US "urban problem," where "numerous independent political-

³⁷ "Neutral probe sought in police shooting," *Toronto Star*, August 11, 1978: A3; "Minorities urge police be disarmed," *Toronto Star*, October 2, 1978: A3.

³⁸ Armstrong and Taylor, *Bromley*, 199.

³⁹ *Ibid.*

⁴⁰ *Ibid.*, 202.

⁴¹ Michael A. Goldberg and John Mercer, *The Myth of the North American City: Continentalism Challenged*, Vancouver: UBC Press, 1986: xv.

administrative units [were] each legally autonomous and often acted in an uncoordinated fashion.”⁴² Political scientist Jen Nelles connected this idea to the history of the Baldwin Act, an 1849 law passed by the Government of Upper Canada that defined “local authorities as the creations, creatures, and political subordinates of provincial governments.”⁴³ This was unique to English Canada. According to Sewell, who published research on the police after his 1978-1980 mayoralty, the Baldwin Act and the 1858 Municipal Institutions of Upper Canada Act “required police to be controlled by a Board of Commissioners of Police,” consisting of three members, including a representative from the City Council, and two individuals appointed by the province.⁴⁴ With the exception of Montreal, Quebec municipalities did not have Police Commissions, nor did they exist in Newfoundland and other small townships across the country. In the areas of English Canada where it was employed, the idea of a Police Commission was mainly restricted to larger cities.⁴⁵ It was through these boards that citizens could seek accountability from the police.

Police Commissions faced increasing pressure and scrutiny over issues of accountability and community engagement. Historian and criminologist Greg Marquis stated that “by the 1970s Canadian chiefs, reacting to external and internal dissatisfaction with mobile patrol, began to examine crime-prevention and community-policing strategies.”⁴⁶ However, Marquis also described this as a perceived threat “to a law-enforcement system that had developed over a period of 100 to 150 years.”⁴⁷ Beginning in the 1960s, Canadian police officials believed there was “a drift away from authority and public safety towards permissiveness and social unrest.”⁴⁸ In the 1970s, these attitudes were in conflict

⁴² Ibid, 195.

⁴³ Jen Nelles, “Myths and Legends: Exploring Differences in Regional Governance and Collective Action in the North American City,” *International Journal of Canadian Studies*, 29 (2014): 161.

⁴⁴ John Sewell, *Police: Urban Policing in Canada*, Toronto: James Lorimer and Company, 1985: 165.

⁴⁵ Ibid, 166.

⁴⁶ Greg Marquis, *Policing Canada’s Century: A History of the Canadian Association of Chiefs of Police*, Toronto: University of Toronto Press, 1994: 10.

⁴⁷ Ibid, 9.

⁴⁸ Ibid, 271.

with politicians, the press, and community groups who demanded public accountability as well as improved relations with women and racial minorities.⁴⁹ In 1956 the Ontario government expanded the Toronto Police Commission to five members, three of whom were chosen by the province. In 1979, the Police Commission consisted of Chair Philip Givens, Metropolitan Toronto Chair Paul Godfrey, Judge Garth Moore, Mayor of Etobicoke Dennis Flynn, and former Progressive Conservative candidate Winfield McKay. It was in this context that the RTPC and the new Working Group were interacting with the Police Commission.

Armstrong and the Working Group presented their brief entitled “Now is Still Not Too Late,” which outlined a series of 10 “umbrella” resolutions aimed at reforming the police department. One of the issues highlighted by the brief was that both articles from *News and Views* were not isolated, but instead were part of a broader culture of racism and bigotry in the force, and that the upper brass of the police refused to acknowledge the existence of a problem.⁵⁰ Armstrong included the queer community in this brief. He recalled that in July 1977, the Ontario Human Rights Commission published its report “Life Together,” which included adding “sexual orientation, age and physical handicap” to the code. Under the umbrella effect, queers, racial minorities, and disability activists worked together to make social and legal change. This was also evident a few days after the meeting with the Police Commission when disability groups and gay and lesbian organizations marched in a rally at Queen’s Park.⁵¹ Armstrong concluded his opening remarks by stating that “these reports, efforts and statements have not been enough.”⁵²

The Working Group had a different set of resolutions that reflected a history of racist policing, and yet the political power of their messaging was extended to include the oppression of the gay

⁴⁹ Ibid, 315.

⁵⁰ “Now is still not too late – A Submission by the Working Group on Police-Minority Relations,” CLGA, RTPC (88-011), Box: 2, File: 23, April 5, 1979: 1.

⁵¹ “Gays, handicapped rally for new code,” *Body Politic*, May 1979: 13.

⁵² “Now is still not too late,” 3.

community in their series of demands. A few of the resolutions presented by the Working Group dealt with longstanding issues between the Police and minority communities, including a demand for affirmative action in hiring practices, and a demand to alter the weight and height restrictions for recruitment on the force. However, the demands emphasized by the Working Group were designed to show solidarity with the gay community. For one, Armstrong argued that the response by Chief Adamson and the Police Association “pointedly avoids addressing the gay issue whatsoever,” and that “prejudice is undeniably and unalterably present within Moclair’s article.”⁵³ The fact that Adamson refused to discipline Moclair was presented as an injustice, and the apology from Moclair was deemed insufficient as it was directed toward the police institutions he embarrassed, and not at the queer community. As a result, the “gay community in particular is angry, insulted and indignant.”⁵⁴ Another important demand that was a sign of solidarity with the gay community was a demand to create an independent civilian review of police complaints. Although the Working Group on Police-Minority Relations added legitimacy to the demands made by the gay community, the April 5 deputation was initially arranged to address the issues raised by the RTPC in the wake of the Barracks raid.

The RTPC’s brief to the Police Commission was entitled “Our Police Force Too!”⁵⁵ This 32-page document outlined the gay community’s litany of issues with Metropolitan Toronto Police. The RTPC was represented by Maloney and Hawkes, but their deputation included sociology professor John Alan Lee, community activist George Hislop, *Body Politic* journalist Paul Trollope, and Kathy Orlita from the Lesbian Organization of Toronto (LOOT). Their brief mirrored and supported the resolutions brought by the Working Group, and in doing so, officially cast the gay community as a legitimate minority within the City of Toronto. Similar to their deputation at the Budget Sub-Committee, the RTPC held a “meeting of

⁵³ Ibid, 4.

⁵⁴ Ibid, 5.

⁵⁵ “Our Police Force Too! A brief presented on behalf of the Toronto Gay Community to the Metropolitan Board of Commissioners of Police,” CLGA, *The Body Politic* (1983-009), Box: 3, File: Bath Raids – City Hall Report, April 5, 1979.

the gay community” on March 10 in order to select the delegation and to formulate their series of ten proposals. Due to this consultation, the RTPC claimed to have a “mandate” to present their brief.⁵⁶ The RTPC declared that “the Police Force which you control is our Police Force, too. We expect it to serve and protect us as well.”⁵⁷ Their stated goal was to “ameliorate the very low level at which police-gay community relations” stood within the first few months of 1979. Expanding on the demand to dismiss Gary Donovan and to end targeted raids of gay and lesbian community institutions, the RTPC proposed that Tom Moclair be assigned to a job where he would have no interaction with the public.⁵⁸ Some in the RTPC argued that the demand should be for Moclair’s resignation, but on the issue of the 1978 *Body Politic* raid the community rhetoric was one of freedom of speech in the press. As a result, they opted to call for Donovan’s dismissal, but they demanded that Moclair be removed to an administrative role.⁵⁹ In articulating a minority comparison, the brief declared, “if any other minority faced this kind of abuse year after year there would be Royal Commissions and police headquarter shake-ups.”⁶⁰

The remaining eight demands made by the RTPC were designed to reform Toronto police in order to foster an environment of cooperation and respect between police and the gay community. Proposal 2 was aimed at preventing someone’s sexual orientation from being disclosed to their employer, and that any police officer who did disclose such details would be dismissed from the force. The dismissal of Gary Donovan, combined with the adoption of proposal 2, was seen by the gay community as a “deterrent” to future breaches of privacy.⁶¹ Proposal 3, the return of the Barracks membership list, was designed to bring closure to the December 9 raid. The Barracks membership list was the only remaining point of contention with the police on that incident. The rest was to be

⁵⁶ Ibid, 4.

⁵⁷ Ibid, 2.

⁵⁸ Ibid, 31.

⁵⁹ “RTPC – Minutes of Meeting March 20, 1979,” Brian Mossop Personal Files, 1.

⁶⁰ “Our Police Force Too!” 9.

⁶¹ Ibid, 22.

determined in court. Proposals 4 through 9 were meant to allay the fears of gays and lesbians in Toronto that they were being targeted by police and that there was a culture of rampant homophobia on the force.

Proposal 8, the creation of a civilian review board for police complaints, was a direct link to the Working Group umbrella. The fact that police complaints were handled internally was seen as an injustice for Toronto's racial minorities, and the RTPC was eager to support the Working Group on this measure, although at their community meeting, the RTPC did not "develop a consensus on the exact nature of a Civilian Review" of complaints made against the police.⁶² "Our Police Force Too!" was a comprehensive list of well-articulated demands that were formulated by the RTPC in consultation with the community. It was seen as a diplomatic way to present the gay liberationist agenda in the wake of bathhouse raids, and it was seen as a unifying force not only among the gay community, but also with other minority groups in the city under the umbrella effect. The relationship fostered between the RTPC and Toronto's minority communities would later prove invaluable as bath raids and police interactions intensified and members of the black community came to the defense of the gay men charged. In 1979 however, this developing link was largely isolated to the small group of professional activists who were advocating police reform.

Don Franco Part II: Respectable Business, Professionalizing Protest, and the "Zap"

This method of activism presented a problem. Speaking for a gay and lesbian minority was one issue, however, claiming the legitimacy to speak on behalf of that community was another. The RTPC political activists claimed to derive a mandate as a result of hosting monthly democratic general meetings open to members of the community. The minutes from these meetings reveal that most meetings had fewer than ten participants. In some cases, meetings had to be cancelled. For example,

⁶² Ibid, 29.

the public meeting on March 1, 1979, was adjourned when only four people arrived.⁶³ Some meetings were well attended, including the March 20, 1979 public meeting in which “Our Police Force Too!” was drafted. However, this meeting included only one woman. In an endeavour to include the lesbian voice as part of their official deputations to the police, the members present at the meeting decided “that the committee should elect three primary representatives, with the power to co-opt lesbian representatives, and three secondary representatives who would attend if lesbian representatives cannot be found.”⁶⁴ This represents the only instance in which lesbian inclusion was discussed by the RTPC prior to Operation Soap in 1981. There were other issues within the RTPC that went beyond community representation.

After successfully building a coalition with the Working Group and having presented a unified list of demands to the Police Commission, the RTPC was stymied by high volunteer turnover and criticism from liberationists. At their meeting on April 10, 1979, the RTPC expanded the executive from three members to six, including Maloney as political logistics chair, Tom Warner as fundraising chair, and Don Franco as chair of the pamphlet production and distribution committee.⁶⁵ Warner resigned from his position only a few weeks later for health reasons. RTPC Chair Michael Laking stopped attending meetings after March 20. He officially cited his “great work load” involving the gay-focussed Lambda Business Council, but he resigned from the committee in the midst of controversy over his and Maloney’s involvement in the group.⁶⁶ In the May 1979 edition of the *Body Politic*, Ken Popert’s “Behind the Lines” column (entitled “Gay Business: Its Interests, and Ours,”) accused the RTPC of solely serving the interests of business. Popert claimed that “a group of small businessmen has apparently established itself as the visible political leadership of gay business in Toronto. And, with the Right to Privacy

⁶³ “RTPC – Minutes of Meeting March 1, 1979,” Brian Mossop Personal Files.

⁶⁴ “RTPC – Minutes of Meeting March 20, 1979,” Brian Mossop Personal Files, 3-4.

⁶⁵ “RTPC – Minutes of Executive Meeting April 10, 1979,” CLGA, RTPC (1984-002), Box: 1, File: 9.

⁶⁶ “Letter from Michael Laking to Brent Hawkes,” CLGA, RTPC (1984-002), Box: 1, File: 7, June 11, 1979.

Committee as its vehicle, gay business stands ready to promote itself as the leadership of the whole gay population.”⁶⁷ While Popert acknowledged that “we cannot doubt that gay business has a part to play in starting the process of gay liberation,” he also explicitly declared that the interests of business placed the human rights strategy “not as the beginning of gay liberation, but as its end.”⁶⁸ Nash has argued that liberationists were critical of the “gay ghetto” and gay-friendly spaces created therein, as it was thought that they “contributed to gay oppression by bringing gays together for someone else’s purpose – the profit of gay businessmen.”⁶⁹

In the midst of this debate, gay business interests were being challenged within the bathhouses as well. At the Richmond Street Health Emporium one of the bathhouse employees, Dave Foreman, unsuccessfully attempted to establish a local of the Hotel and Club Employees Union. In a secret ballot vote, nine of his fellow employees voted against unionizing the Richmond, and only one joined him in voting in favour. This was in spite of the fact that Foreman had 55% of his coworkers signed up for union membership. Foreman and other union activists suspected that management worked hard to persuade the employees against unionizing.⁷⁰ This was during a time when Ontario unions contentiously debated issues related to human rights and discriminatory language in collective agreements. At the May 1979 Canadian Union of Public Employees (CUPE) convention, delegates debated two resolutions: first, to add sexual orientation to the human rights clause of the union’s constitution, and second, to encourage “affiliates to bargain for the inclusion of sexual orientation in the non-discrimination clause of their collective agreements.”⁷¹ This new worker consciousness, both in organized labour and among queer workers, fuelled the idea among some liberationists that gay

⁶⁷ Ken Popert, “Gay Business: its interests, and ours,” *The Body Politic*, May 1979: 18.

⁶⁸ Ibid.

⁶⁹ Nash, “Consuming Sexual Liberation,” 93.

⁷⁰ Paul Trollope, “Bath workers vote down union, organizer to make second try,” *The Body Politic*, May 1979: 14.

⁷¹ I am greatly indebted to my colleague Mathieu Brûlé, whose PhD dissertation on queer activism in organized labour through the 1970s was the inspiration behind this section; “Union backs gays,” *Body Politic*, June 1979: 16.

business prioritized profits regardless of whether or not it was at the expense of gay workers or the community as a whole.

Brent Hawkes published a direct rebuttal of Popert's article in the following edition of the *Body Politic*. Hawkes was keen to defend the organization on the grounds that the RTPC was a community-based organization, and that gay business was only represented by two members of the Committee: Michael Laking and Peter Maloney.⁷² In the case of Laking, Hawkes noted that he had missed more meetings than he attended, and that such absenteeism was "not exactly a 'take-it-over' strategy" for the business community. In the case of Maloney, while he had previous business interests, his focus in 1979 was on his studies at law school, and he no longer held financial interest in bathhouses. Hawkes concluded his rebuttal by explaining that no single interest within the sexual liberation movement should become the dominant voice, but rather a coalition of interests was needed to ensure solidarity. *The Body Politic* collective was deeply divided on the issues raised in this debate, declaring that the decision to publish Popert's article "was the subject of much disagreement within the collective before it was printed."⁷³ It inspired the collective to start a new regular column entitled "Taking issue," with Hawkes' article as the first in the series. The collective published its own view of the controversy by stating that the Barracks raid and the subsequent activities of the RTPC did "not constitute a complete programme for gay liberation," and that "they were never intended as such."⁷⁴

Popert published a response to Hawkes' rebuttal in the July issue, which only marginally indicated a conciliatory tone. In it, Popert was critical of Maloney, specifically with regard to his actions at the Police Commission, claiming that he gave his deputation "not as Peter Maloney, private citizen, but as Peter Maloney, member of the Right to Privacy Committee."⁷⁵ Popert's column, entitled

⁷² Brent Hawkes, "Column outrageous, poorly researched," *The Body Politic*, June 1979: 7.

⁷³ "Take issue with us," *The Body Politic*, June 1979: 3.

⁷⁴ "Divergent interests a common task," *The Body Politic*, June 1979: 8.

⁷⁵ Ken Popert, "Vestments and Investment," *The Body Politic*, July 1979: 17.

“Vestments and Investments,” demonstrates some of the deeper personality conflicts and ideological struggles within the community, than any real critique of the RTPC political agenda. “Vestments” referred to Hawkes’ title as a clergyman at the Metropolitan Community Church, and “investments” referred to Maloney’s history as a gay business owner. Neither Popert’s rebuttal nor his initial column in May had any specific issue with the political agenda presented by Maloney at the deputations. Popert concluded the debate by claiming that his initial argument that the RTPC was “a vehicle” for gay business had been exaggerated, stating “I willingly accept my share of the blame, for I believe that writers are responsible for making themselves understood.”⁷⁶ The part of Popert’s argument that was largely overlooked was his idea that business owners as political operatives presented a problem for the community because business owners relied on the police to protect their interests. This meant that the tone was shifted toward respectable political discourse, so as “not to offend our friends on the police force.”⁷⁷

According to Nash, this was part of a larger trend in the 1970s toward respectability and legitimacy. There was the emergence in popular media of a “new” gay community, which consisted of “gays and lesbians who were living monogamous, middle-class lives in suburbia and who eschewed the ‘debauchery’ of the ‘gay ghetto.’”⁷⁸ This does not adequately describe the motivations of Peter Maloney, who Popert felt embodied the emergence of this new class of respectable gay activism, and yet who personally built the Barracks, the city’s bawdiest of bathhouses. This shift toward respectable political discourse is best understood by examining the access point in which the state and the sexually-deviant come into contact. In Steven Maynard’s analysis of early 20th century Toronto, he built upon Foucault’s idea of “anchor points,” where “discourse and the sexual underground met face-to-face.”⁷⁹

⁷⁶ Ibid.

⁷⁷ Popert, “Gay Business.”

⁷⁸ Nash, “Consuming Gay Business,” 93.

⁷⁹ Steven Maynard, “Through a Hole in the Lavatory Wall: Homosexual Subcultures, Police Surveillance, and the Dialectics of Discovery, Toronto, 1890-1930,” *Journal of the History of Sexuality*, 5:2 (1994): 239.

In Maynard's time period of study, these points included the sites where police officers arrested men who were engaged in gay sex, but also included courtrooms and physicians' offices. Sexual liberation and political activism of the 1960s multiplied the number of these potential anchor points. For Maloney and the RTPC in 1979, one of these interactions between sexual deviance and morality discourse was at the Police Commission. This can be seen as part of a broader trend in social movements and the state. For example, in Martel's examination of marijuana activism, he argued that access to the state is uneven, and that certain groups possessed an advantage over others in influencing policy. Student groups, who refused to participate in respectable political interactions both with other groups and with the state were often left out of the process.⁸⁰ Further attacks on the community by police in 1979 challenged the idea that the RTPC should remain committed to respectable activism.

There were several negative encounters between queers and police in the weeks following the April 5 deputation to the Police Commission. Undercover agents from 51 Division constructed a special washroom cubicle in Greenwin Square shopping mall and apartment complex located a few blocks north east of the gay commercial district. This cubicle was crafted with the appearance that it was closed and under repair. In actual fact, an undercover agent used this space to spy through a phoney ventilation grill into the adjacent cubicle. With "up to four arrests per day," through April and May 1979, this entrapment technique was characterized by liberationists as having nothing to do with public safety and was merely a tactic used to "maximize the possibilities for arrests."⁸¹ In another incident inflaming gay-police relations, Constable John Puce of 52 Division conducted a body search of two patrons who were at Dudes, one of Toronto's gay bars. Prior to the search, Puce allegedly stated, "I like your bar. I'm a queer, I'm a faggot."⁸² By early July, it was made clear by the police-controlled Citizens Complaint Bureau (CCB) that Puce would not be charged for his comments under the Police Act. The CCB came to

⁸⁰ Martel, *Not this Time*, 199.

⁸¹ "Cop hides in toilet for entrapment blitz," *Body Politic*, July 1979: 15.

⁸² "Police reverse decision, charge Puce for anti-gay slur," *Body Politic*, August 1979, 12.

this conclusion on the basis that “since the officer had made remarks about himself, he had not defamed a member of the public.”⁸³ Similar to the *News and Views* controversy, these instances of negative police interactions with queers was not limited to patrol officers.

There were two issues at the end of May 1979 that indicated the police opposition to recognizing the gay and lesbian community as legitimate. The first issue was from an event on May 26 at Castle Frank Secondary School where community outreach officers hosted an event entitled “Cop Shop.” This event was organized by the Programmes Committee of the Toronto Board of Education and was a presentation to students by the police on their use of identification tactics and information gathering. The community officers circulated a checklist that police used when interacting with a member of the public. Among many of the categories on the checklist, one of the headings was called “Deviate,” with two sub-sections which could be checked: homosexual and lesbian.⁸⁴ The Working Group on Police-Minority Relations also complained about the identification checklist, arguing that the “deviate” subsection was “bigoted” because gays and lesbians were a “minority group”, and because they felt “that the Board of Education should not allow a course that teaches our children that people of different sexual orientation are deviates in our society.”⁸⁵ The second issue was that on May 31, 1979, the Police Commission issued their reply to the April 5 deputation by the RTPC and the Working Group. In their response, they included a “Declaration of Concern and Intent,” which stated that the Metropolitan Toronto Police were “totally committed to combatting all forms of discrimination.”⁸⁶ In spite of this statement, the Police Commission did not mention sexual orientation specifically, and was therefore vague on whether they viewed the gay community as a legitimate minority. The declaration did not acknowledge any wrongdoing on behalf of the police, and none of the proposals presented by

⁸³ Ibid.

⁸⁴ “Police Identification Checklist,” Brian Mossop Personal Files, N.D. c. 1979.

⁸⁵ “Presentation by Working Group on Police Minority Relations: Saturday Morning Enrichment Class Called ‘Cop Shop’”, CLGA, RTPC (1984-002), Box: 1, File: Presentation by working group on police-minority relations, N.D. 1979.

⁸⁶ “Letter from Philip Givens to Walter Lotto,” CLGA, RTPC (1984-002), Box: 1, File: Correspondence, May 31, 1979.

the RTPC in “Our Police Force Too!” were accepted or implemented. The Police Commission set a meeting for June 28 to allow members of Council and other groups (including the RTPC) to respond to the declaration. Police patrols, identification tactics, and a refusal to recognize the legitimacy of the community were issues closely followed by the RTPC, but no one had any idea that the police would escalate their entrapment arrests to include gay men in their own homes.

In May 1979, Don Franco placed an ad in the *Body Politic* seeking an intimate encounter. In addition to being one of the Barracks found-ins whose employer was notified by the police, Franco was a kink enthusiast to the extent that he built a sex dungeon in his home. Don Lines, an undercover police agent based out of 55 Division, responded to Franco’s personal advertisement and arranged to meet on June 6. When the undercover agent arrived, the two men discussed the various sex acts that they were about to perform, including a tour of the dungeon. The officer then notified Franco that he was under arrest for “keeping a common bawdy house,” under the same Criminal Code provisions used to raid the Barracks. Officer Doug Lines and his superior, Sergeant Lenard Ormerod, executed a search of Franco’s home after placing him under arrest. During this search, they seized “12 garbage bags with everything from leather items in his ‘dungeon’ to street maps of San Francisco.”⁸⁷ Franco, who wished to remain cautious after his employer was notified after the Barracks raid, was known in the press as “teacher x.” Clayton Ruby, a renowned civil liberties lawyer, took on Franco’s case and represented him in the media. Ruby argued that the raid on Franco’s home violated the Trudeau rhetoric on bedroom privacy in the 1969 Omnibus Bill. However, due to Franco’s homemade sadomasochistic ‘dungeon’, the police alleged that Franco’s home fit the definition of an indecent common bawdy house. Ruby argued in the press that “should the teacher be convicted of keeping a bawdy house, it will create a legal detour around the 1968 amendments and render them invalid. In effect, once an act is found by the courts to be indecent,

⁸⁷ Alan McLean, “Teacher wins trial delay, seeks return of NDP gay list,” *The Body Politic*, August 1979: 10.

then anyone's home can be considered a common bawdy house if such an act is committed there."⁸⁸

This perceived attack by the police on the community divided the RTPC.

Some on the committee believed they should respond to these matters by continuing a legitimacy and minority rights strategy of activism. Maloney began preparations to present a rebuttal to both the Police Commission and the provincial counterpart, the Ontario Police Commission (OPC). At the RTPC public meeting on June 11, the group decided to continue pressing for police reforms by adding three new demands to the initial ten listed in "Our Police Force Too!" The first was to call for an independent inquiry into the raid of Franco's home, which the RTPC believed was motivated by reprisal against Franco for publicly fighting the police on the Gary Donovan incident. That Franco was an active member of the RTPC and the Working Group provided a motive for police to target his home.⁸⁹ The second demand was the return of the NDP gay caucus membership list seized by police during the Franco raid. The third new demand, as a response to the school program "Cop Shop," was for the Metropolitan Toronto Police to cease identifying people "as homosexual or lesbian."⁹⁰ The Toronto New Democratic Party Council and the Toronto Board of Education joined Maloney and the RTPC under the umbrella of police reform.⁹¹ In spite of these new demands, the RTPC did not gain any concessions from the Police Board at the June 28 meeting. While Maloney continued organizing the political activities of the RTPC, the role of chairperson had to be filled with the resignation of Michael Laking, Brent Hawkes was selected as the new RTPC chairperson at the public meeting on June 11.⁹² Maloney urged Hawkes to take the role, as he believed that this would enable the group to continue lobbying the Police Commission and make allies within the Reform Metro umbrella.⁹³

⁸⁸ James Jefferson, "Charges may invalidate law on adult consent," *Globe and Mail*, June 16, 1979: 5.

⁸⁹ "Toronto Gay Community presentation to the Metropolitan Toronto Board of Commissioners of Police," CLGA, RTPC (1984-002), Box: 1, File: 11, June 28, 1979: 4.

⁹⁰ *Ibid*, 15.

⁹¹ Paul Trollope, "Cop report called "insulting," gays prepare for showdown," *The Body Politic*, July 1979: 12.

⁹² "Letter from Peter Maloney to Brent Hawkes," CLGA, RTPC (1984-002), Box: 1, File: 9, May 25, 1979.

⁹³ "Notice of election of executive," CLGA, RTPC (1984-002), Box: 1, File: 1, June 11, 1979.

On July 5, Hawkes sent a letter to the OPC requesting a meeting to discuss the demands that had been rejected by the Police Commission. Hawkes stated in his letter that in spite of the fact that the OPC declared that these “problems could be resolved at the local level,” it became clear after their June 28 deputation that the RTPC would not gain any concessions.⁹⁴ Judge Thomas J. Graham, Chairperson of OPC, wrote a letter in response to Hawkes with a detailed reply which upheld every action taken by the Toronto Police Commission.⁹⁵ The OPC tacitly approved the omission of sexual orientation from the “Declaration of Concern & Intent,” stating “it is the opinion of the Commission that the Board of Commissioners of Police and the Chief of Police have satisfactorily met this demand for action.”⁹⁶ This was disappointing to members of the RTPC, but it was not unexpected. The RTPC was prepared to swing in a more radical direction.

At the RTPC public meeting on June 25, Hawkes was mandated to go beyond the police to Attorney-General Roy McMurtry. On June 27, Hawkes sent a letter to Attorney-General Roy McMurtry. In his letter, he stated that the RTPC membership wished to meet with McMurtry in order to communicate two community demands. The first demand was a “complete review” of the charges laid against Don Franco, stating that the raid on his home and “the laying of these charges in such non-commercial circumstances is unprecedented and that they constitute an attempt to subvert the legislative intent of the 1969 Criminal Code amendments.”⁹⁷ The RTPC also sought a full, independent inquiry into the police investigation against Franco, arguing that it was motivated out of reprisal. The *Body Politic's* August 1979 editorial expressed frustration with McMurtry for ignoring Hawkes' letter,

⁹⁴ “Letter from Brent Hawkes to Judge Thomas J. Graham, Chairman of the Ontario Police Commission,” CLGA, RTPC (1984-002), Box: 1, File: Correspondence, July 5, 1979.

⁹⁵ “Letter from Judge Thomas J. Graham to Brent Hawkes,” CLGA, RTPC (1984-002), Box: 1, File: Correspondence, July 27, 1979.

⁹⁶ “Ontario Police Commission Response to Request for an Inquiry into Metropolitan Toronto Police Force,” CLGA, RTPC (1984-002), Box: 1, File: Correspondence, July 26, 1979: 5.

⁹⁷ “Letter from Brent Hawkes to Roy McMurtry,” CLGA, RTPC (1984-002), Box: 1, File: Correspondence, June 27, 1979.

and they declared that “police homophobia is condoned by the (Tory) government-controlled Board of Police Commissioners, and the Attorney General of Ontario, Roy McMurtry.”⁹⁸ The RTPC came to the conclusion that polite requests, official briefs, and writing letters would not be sufficient to bring the issue to the attention of McMurtry. Maloney, who was among the RTPC moderates, stated that if McMurtry continued to ignore this problem with the police, “this may be the appropriate point at which to use other tactics – such as non-violent civil disobedience.” Maloney continued by saying, “my mother taught me manners, but it’s becoming increasingly clear that a well-mannered approach doesn’t work.”⁹⁹

On July 24, 1979, a small splinter group of gay activists met at a restaurant with John Alan Lee. Lee was a sociologist and activist who frequently attended RTPC meetings. He was accompanied by RTPC executive member Brian Mossop.¹⁰⁰ Lee specified the goals of their upcoming radicalized protest: to confront the “political chief of the justice system” regarding the charges against Franco, to state that the charges “circumvent the 1969 criminal code,” to demand a “public inquiry into anti-gay activity of the Toronto police,” and finally, for McMurtry to attend a meeting with the gay community.¹⁰¹ They conducted a training session to role play and decide how far they were willing to take their civil disobedience: Lee stated in his autobiography that “we have yet to decide what level of criminal charges each of us is willing to face.”¹⁰² Ultimately, they decided to conduct a sit-in. Although it was made to appear as though this was a small unofficial splinter group, Hawkes was aware that this radical action was taking place, and was ready to play the role of the “moderate negotiator” between state officials

⁹⁸ “Losing patience,” *The Body Politic*, August 1979: 7.

⁹⁹ Bill Lewis, “Police Commission stands pat despite mounting pressure to act,” *The Body Politic*, August, 1979: 12.

¹⁰⁰ Interview with Brian Mossop, February 10, 2016; Brian Mossop Personal Diary, July 24, 1979.

¹⁰¹ John Alan Lee, *Love’s Gay Fool*, [online] http://www.johnalanlee.com/chapters/chapter_18.htm, July 24, 1979.

¹⁰² *Ibid.*

and gay activists.¹⁰³ Lee modelled this protest after a gay liberationist tactic from post-Stonewall New York City called a “zap.”

The zap was popularized by the Gay Activist Alliance (GAA) in April 1970. After continued police raids on queer establishments after Stonewall, activists targeted New York City Mayor John Lindsay. The idea of a zap was to unexpectedly and uncomfortably confront a political figure with a list of demands.¹⁰⁴ On April 13, Lindsay was giving a speech at the Metropolitan Museum of Art when GAA member Marty Robinson walked to the podium and demanded, “when are you going to speak out on homosexual rights, Mr. Mayor?”¹⁰⁵ After Robinson was rushed off-side by police and Lindsay concluded his speech, more GAA members were waiting in the crowd during his meet-and-greet to continue the public confrontation. GAA members gathered for a training session prior to an April 19 taping of the Mayor’s weekly television program, where activists had quietly arranged a large group of tickets. During the taping, Lindsay was continually interrupted until all GAA activists had been removed from the set.¹⁰⁶ With McMurtry as the target, Lee was determined to bring this mode of activism to Toronto.

Seven gay men, led by Lee, entered the Attorney General’s office building at 9am on Monday August 20. Due to issues with security personnel, they were unable to gain access to McMurtry’s office, but instead they were diverted to the waiting room in the office of the Deputy Attorney General. There, the seven protesters camped out. This action received coverage in the media, with the *Globe and Mail* labelling it “the latest move by Toronto’s gay community to end what they call harassment of homosexuals by police and Crown attorneys.”¹⁰⁷ The *Body Politic* dispatched Gerald Hannon and Robin Hardy to cover the story, though they regretted the fact that this occurred “a bare 14 hours until the paper was to go to press” for their September edition. They reported that “the atmosphere was jovial,”

¹⁰³ Interview with Brent Hawkes, June 18, 2013.

¹⁰⁴ Carter, *Stonewall*, 243.

¹⁰⁵ Ibid, 244.

¹⁰⁶ Ibid, 245.

¹⁰⁷ “Gay protest,” *Globe and Mail*, August 21, 1979: 40.

and that the seven protestors passed their time playing bridge, sleeping, eating their boxed food, and pacing up and down the hallways.¹⁰⁸ Officials threatened the group with charges of criminal trespass and they were prevented from communicating with the outside world. They managed to send one note to their supporters: “we will maintain our position here; our food supplies are quite adequate, and our morale is high.”¹⁰⁹ The Deputy Attorney General negotiated with Lee and promised a meeting with McMurtry but only after the group left as he would not meet “under threat.”¹¹⁰ At noon on August 22, two and a half days after their sit-in began, the group of community supporters who had gathered outside sent Hawkes in to negotiate an end to the civil disobedience.¹¹¹ The group sang “We Shall Overcome” as they were led out of the building, and Lee declared in the *Globe and Mail* that they had “achieved as much as we could.”¹¹²

As they exited the sit-in, they walked a short distance to the Rogers Cable TV Studios where *Toronto Sun* columnist Claire Hoy was taping a call-in show. Hoy used his column to label the sit-in a “mince-in [by a group] suffering from a series of imagined grievances,” and he predicted that the protestors would be removed, but that it would occur “in a quick, quiet manner, with no television cameras or newspaper reporters present, thus depriving them of ammunition for their alleged case against the world of straight (read, normal) people.”¹¹³ In spite of this prediction, it was Hoy’s cameras that covered the end of the sit-in. During the exchange in the studio, one of the protestors compared the community to racial minorities, asking Hoy, “if black people in this city were to hold a sit-in, would you call it a jigaboo-in?” The *Body Politic* reported “Hoy replied that blacks were a legitimate minority, but that gay people simply had a ‘depraved lifestyle, and a serious problem.’” Lee yelled back at Hoy:

¹⁰⁸ “The dilemma of deadlines,” *The Body Politic*, September 1979: 3.

¹⁰⁹ *Ibid.*

¹¹⁰ Lee, *Love’s Gay Fool*.

¹¹¹ “Flyer – 18 Floors Up a Sit-In is Taking Place,” CLGA, RTPC (1986-002), Box: 1, File: Posters, August 20, 1979.

¹¹² “7 halt sit-in at A-G office,” *Globe and Mail*, August 23, 1979: 5.

¹¹³ Claire Hoy, “Homosexuals harassed? Nonsense!” *Toronto Sun*, August 22, 1979: 14.

“you have the problem, and your problem is bigotry.”¹¹⁴ The sit-in was a victory for Lee and his protest team, yet the legitimacy of the queer community continued to be placed under question.

Although they received positive coverage in both the mainstream and queer press, none of the goals of the RTPC or the sit-in protestors was met. One day into the sit-in, on August 21, McMurtry replied to Hawkes’ June 27 letter and stated that because the matter was before the courts, it was inappropriate for him to interfere in the judicial process. Franco’s charges were proceeding to court and McMurtry, who consulted with the Crown attorneys prosecuting the case, believed that there were no “grounds to intervene in the regular course of the law.”¹¹⁵ Hawkes replied that the sit-in demonstrated that “respected and responsible members of our community are expressing very deep concern with respect to the actions” of the police, the Police Commission, the OPC, and Crown Attorneys.¹¹⁶ As the exchange of correspondence grew more frustrated, McMurtry replied that he would only meet members of the community provided that he was told “who in fact are the persons who would wish to attend such a meeting and whom they purport to represent.”¹¹⁷ This statement reflected an underlying attitude that the gay and lesbian political community was not considered legitimate in the eyes of the Attorney General. In a later reply, Hawkes stated that “this left us with no alternative but to conclude that you were not prepared to accept the legitimacy of the delegates as representative of the gay community.”¹¹⁸ According to Lee, a meeting between McMurtry and a community delegation occurred eight months later, on April 4, 1980. Although he promised to maintain a liaison and agreed to consider

¹¹⁴ Gerald Hannon, “Attorney General grants meeting, sit-in forces McMurtry turnabout,” *The Body Politic*, October 1979: 12.

¹¹⁵ “Letter from Roy McMurtry to Brent Hawkes,” CLGA, RTPC (1984-002), Box: 1, File: Correspondence, August 21, 1979; “Teacher wins trial delay, seeks return of NDP gay list,” *The Body Politic*, August 1979: 10.

¹¹⁶ “Letter from Brent Hawkes to Roy McMurtry,” CLGA, RTPC (1984-002), Box: 1, File: Correspondence, August 24, 1979.

¹¹⁷ “Letter from Roy McMurtry to Brent Hawkes,” CLGA, RTPC (1984-002), Box: 1, File: Correspondence, August 31, 1979.

¹¹⁸ Letter from Brent Hawkes to Roy McMurtry,” CLGA, RTPC (1984-002), Box: 1, File: Correspondence, November 9, 1979.

“speaking to a conference on gay civil rights,” no such liaison was established and no conference ever took place.¹¹⁹

It had been nine months since the Barracks raid and the formation of the RTPC, and yet there was limited success from these advanced strategies of activism. They presented submissions before the Police Commission and the OPC, created linkages with Reform Metro and the Working Group, and orchestrated a zap by occupying the Deputy Attorney-General’s office. In each case, a small group of exclusive professionals were at the center of political action. Theoretically, RTPC public meetings were designed to keep the executive accountable to the community, but in practice these meetings served as political rallies and top-down information sessions. There were those on the RTPC executive who believed that both Hawkes and Maloney yielded excessive power over the operations of the group. After the RTPC public meeting on June 11, Mossop wrote in his diary that “Hawkes + Maloney seem to be acting almost autonomously.”¹²⁰ After their meeting on August 13, leading up to the sit-in, Mossop wrote “P Maloney becoming too prominent.”¹²¹ While unsuccessful in his attempts at the Police Commission, some of Maloney’s prominence was due to his tenacious political efforts. In the one victory for the RTPC over the course of its first year in existence, Maloney helped reverse the decision to not bring charges against Puce. Staff-Sergeant Chisholm of the Citizens Complaint Bureau “had been overruled by his superiors and that Constable Puce would be charged with being uncivil to a member of the public, an offense under the Police Act.”¹²² This was a victory, but it was won by the sole efforts of Maloney, a political activist with professional experience and access.

¹¹⁹ Lee, *Love’s Gay Fool*.

¹²⁰ Personal Diary, Brian Mossop Files, June 11, 1979.

¹²¹ Personal Diary, Brian Mossop Files, August 13, 1979.

¹²² “Police reverse decision, charge Puce for anti-gay slur,” *Body Politic*, August 1979, 12.

Hot Tub Halloween: RTPC Policy Conference and the “Politics of Distraction”

The detachment between the political actions of the RTPC and the community it claimed to represent continued to stymie efforts to change the policing of gay sex in Toronto. At the executive meeting on August 27, both RTPC chair Brent Hawkes and secretary Bill Mole resigned their positions to focus on other pursuits.¹²³ Hawkes’ replacement was selected at a contentious RTPC public meeting on September 10. According to Mossop’s diary, an “RTPC blowup over Peter M + Brent H acting alone” consumed the group.¹²⁴ The solution was to select John Alan Lee to chair the group because of his intellectual and radical social views. However, Lee immediately became frustrated with the ideological divisions that already existed within the RTPC, and he was continually at odds with Maloney and the other business interests surrounding the Barracks raid.¹²⁵

Lee inherited a series of issues as he assumed the RTPC chair. First, a fundraising dance that was scheduled for September 15 was unable to proceed because the Liquor Licence Board of Ontario (LLBO) refused to grant a licence for the event. The RTPC was not registered as a non-profit charity and this subjected the group to the “community organization” section of the regulation. This enabled the LLBO to deny the licence because they did not “feel the dance would ‘benefit the community as a whole.’”¹²⁶ As a result, the RTPC was not able to continue with their event, bringing fundraising to a standstill. The group raised just over \$5000 by September, which was not nearly sufficient to pay for the looming Barracks and Franco trials.¹²⁷ Second, at Lee’s first executive meeting as chair, some members of the group passed motions to challenge Maloney’s initiatives.

The very nature of the RTPC as an institution was placed in question. On September 21, Mossop discovered that Maloney had written a letter to the police regarding homophobic bashing which

¹²³ “RTPC Minutes of Executive Meeting,” Brian Mossop Personal Files, August 27, 1979; Interview with Brent Hawkes, June 18, 2013.

¹²⁴ Personal Diary, Brian Mossop Files, September 10, 1979.

¹²⁵ Interview with Brent Hawkes, April 22, 2014.

¹²⁶ “Board denies booze, Hot Affair cancelled,” *The Body Politic*, October 1979: 14.

¹²⁷ “RTPC Financial Report,” Brian Mossop Personal Files, September 30, 1979.

occurred at the St. Charles Tavern each Halloween. Maloney used RTPC letterhead to request a meeting with police, but this initiative had not been approved by the executive, nor had it been discussed at a public meeting. Mossop wrote in his diary, "P. Maloney has written Halloween letter to police – need to bring RTPC back to its central purpose."¹²⁸ At the executive meeting on September 24, Maloney presented a motion for the RTPC to repay his former business the Club Baths Toronto for the expenses incurred from the failed Hot Affair dance. This motion was defeated by the executive in a vote of two in favour, four opposed. Similarly, when Maloney read his letter to the police regarding Halloween, RTPC executive members Clarence Barnes and Dean Haynes presented a motion to censure Maloney and to ensure the RTPC play merely a supporting role to the lead group on the issue: the Gay Liberation Union (GLU). The executive debated the purpose and future of the organization. They agreed that they would schedule a public meeting for October 11 in which there would be a panel of presenters on the topic of RTPC goals and methods.¹²⁹

The public meeting on October 11 turned into an ideological battle between several factions in the RTPC. In his memoirs, Lee described an argument on tactics between "legalists" and "zappers."¹³⁰ Legalists, including Maloney, were in favour of continuing the strategy of police reform and legitimate politics of press conferences and official briefs. The zappers, including Lee, argued that non-violent civil disobedience akin to the sit-in against McMurtry ought to be the strategy of choice. According to sociologist Dominique Clément, "in the age of protest, social movement activists raised the spectre of mass mobilization, from rallies to sit-ins, as well as alternative forms of protest, including civil disobedience or the formation of subcultures, to promote social change."¹³¹ This unconventional tactic ran counter to the actions of the RTPC through the first half of 1979. In the early weeks of the RTPC,

¹²⁸ Personal Diary, Brian Mossop Files, September 21, 1979.

¹²⁹ "RTPC Executive Meeting Minutes," Brian Mossop Personal Files, September 24, 1979.

¹³⁰ Lee, *Loves Gay Fool*, October 13, 1979.

¹³¹ Dominique Clément, *Canada's Rights Revolution: Social Movements and Social Change, 1937-82*, Vancouver: UBC Press, 2008: 208.

activists had met at Maloney's house and decided on a rights-based strategy. Clément argued that "the repertoire of tactics available to [social movement organizations] was extensive, but rights associations limited themselves primarily to briefs, publications, litigation, the development of position papers, and sending observers to protest marches."¹³² Utilizing a "discourse of rights" enabled the RTPC to have access to these "legitimate forums in which to advance their claims."¹³³ In the aftermath of the sit-in at McMurtry's office, Lee was keen to continue the controversial tactic of civil disobedience. This debate was entirely about tactics and was not related to the internal democratic structures of the organization.

Mossop and community activist Tony Souza presented several motions aimed at the democratic and accountability process of the RTPC. During the presentation, Souza outlined three types of activist organizations: the popular method, where an elected executive acts on behalf of a community and is held accountable only at the next election; the democratic method, where an elected executive must regularly consult the broader membership for important decisions; and finally, the collective method, where there is no executive and the organization operates through consensus.¹³⁴ In Souza's view, the RTPC had been operating as "a combination of the 'popular' method and the 'democratic' method," whereas he preferred a combination of the democratic and collective method.¹³⁵ He cited two examples of when RTPC executive members took it upon themselves to act without executive approval: the soliciting of funds from businesses to sponsor a fundraising dance, and the arranging of a meeting with police regarding Halloween. Maloney was never mentioned by name, but Souza concluded his presentation by stating, "too often in the case of minority groups especially, have I seen one person take over the spotlight and begin to speak for the organization."¹³⁶

¹³² Ibid.

¹³³ Ibid, 35.

¹³⁴ "Methods – Presentation to the RTPC," Brian Mossop Personal Files, October 11, 1979: 1.

¹³⁵ Ibid, 2.

¹³⁶ Ibid.

These divisions between activists were not unique to the RTPC. Political scientists Lisa Young and Joanna Everitt wrote that “the demands for internal democracy and inclusiveness weigh most heavily on the organizations ... that try to speak for collectivities of Canadians who are otherwise not well represented in mainstream political institutions.”¹³⁷ Souza and Mossop presented motions that would have reorganized the RTPC hierarchy to place the monthly general meeting as the primary decision-making body, with the executive designed to carry out the affairs of the group between those meetings.¹³⁸ Maloney, on the other hand, presented motions that not only affirmed his role and activities on behalf of the group, but also moved to reverse the decision from the executive meeting on September 24 to turn the Halloween issue over to the GLU.¹³⁹ The public meeting concluded debate on these matters, and were about to hold a vote to decide which direction the RTPC should take. In this moment they were interrupted by news that the Hot Tub Club, a bathhouse located across the street from the RTPC public meeting, was being raided by police.

At around 9pm on October 11, 1979, 50 members of the Metropolitan Toronto Police raided the Hot Tub Club as well as four other private locations as a result of a five-month investigation. There were 26 people arrested who faced 60 charges, including keeping a common bawdy house, conspiracy to keep a common bawdy house, being found in a common bawdy house, manufacturing obscene material, and marijuana possession.¹⁴⁰ The investigation and raid of the Hot Tub mirrored that of the 1978 raid on the Barracks, including undercover operations and entrapment. This time, however, the police utilized new technical equipment, including long-distance cameras and wiretaps, to gather evidence. Lee, Maloney, and the other RTPC members arrived with enough time for them to form a blockade around the bathhouse, preventing the waiting paddy wagons from reaching their destination. The *Globe*

¹³⁷ Lisa Young and Joanna Everitt, *Advocacy Groups*, Vancouver: UBC Press, 2004: 45.

¹³⁸ “Methods – Presentation to the RTPC,” 4.

¹³⁹ “The Right to Privacy Committee Public Meeting – Notice of Motions,” CLGA, RTPC (1984-002), Box: 1, File: Open Meetings, October 11, 1979: 2.

¹⁴⁰ “Dozen face charges in sex raids,” *Toronto Star*, October 12, 1979: A3.

and Mail reported that “about 60 people stood outside the Hot Tub Club ... chanting slogans: Stop Police Harassment and Police Go Home.”¹⁴¹ Some believed that the raid, conducted by 55 Division, was selected purposefully because 55 Division cases were tried in court at the College Park Courthouse, which did not suffer the same backlog as the Old City Hall courthouse where the Barracks and Franco cases were proceeding. Maloney argued that “successful convictions would give the Crown and the Toronto morality squad a powerful weapon with which to attack gay institutions and private homes.”¹⁴² The anger from the heated RTPC meeting was temporarily placed on hold, as calls for unity around this new group of found-ins shrouded debates over internal politics.

The matters raised at the October 11 meeting were decided by the executive two days later. In light of the raid on the Hot Tub, they opted to postpone any significant decisions relating to the structure or purpose of the group. Instead, they voted to hold a policy conference in early 1980 in order to discuss the issues after the immediate needs of those arrested were met. They also placed the focus back onto fundraising for the legal defense, as the number of defendants the group sponsored was about to increase.¹⁴³ On the issue of Halloween, they contentiously debated whether to leave the matter to the GLU, send a delegation to meet with police, or conduct civil disobedience. They voted to participate in a meeting organized by the GLU in a supportive role.¹⁴⁴

Halloween was a difficult time for Toronto queers. Dennis Findlay remembers that Halloween in the early 1970s was a jubilant time.¹⁴⁵ Gays, lesbians, and drag queens dressed up in their best costumes and bar-hopped along the northern section of the Yonge Street Strip. They drank, socialized, and paraded between the various bars, culminating at the St. Charles Tavern.¹⁴⁶ As the decade

¹⁴¹ “Police raid gay club amid jeering crowd,” *Globe and Mail*, October 12, 1979: 2.

¹⁴² Robert Trow and Bill Lewis, “Cops raid hot tub club, private homes on eve of opening of Ontario legislature,” *The Body Politic*, November 1979: 8.

¹⁴³ “RTPC Executive Meeting Minutes,” Brian Mossop Personal Files, October 13, 1979: 1.

¹⁴⁴ *Ibid*, 2; Lee, *Loves Gay Fool*, October 13, 1979.

¹⁴⁵ Interview with Dennis Findlay, October 2, 2012, June 19, 2013.

¹⁴⁶ Warner, *Never Going Back*, 105.

unfolded, mobs of heterosexual onlookers turned the event into a spectacle of harassment and assault, primarily through hurling insults and freshly-bought eggs. Hawkes recalls visiting local convenience stores to ask them to not sell eggs on October 31.¹⁴⁷ Halloween in 1978 was particularly violent, with thousands of people lining the street for several blocks. The *Body Politic* reported that although there were 95 arrests, “the police did nothing to prevent the biggest display of straight hate in North America from turning Yonge Street into dangerous territory for gay people.”¹⁴⁸ As a result, many in the gay community wanted to ensure that Halloween 1979 would be different.

Despite the attempts of the RTPC and the GLU to lobby the Metropolitan Toronto Police, the Halloween mob continued their egg-throwing tradition on October 31, 1979. The delegation from the GLU and the RTPC held a meeting with police on October 21. The contingent of activists representing both the RTPC and the GLU were selected at a community meeting on October 18. This allowed for community input and deliberation, and it ensured that the activists could claim a mandate to speak on the community’s behalf. At the October 21 meeting with police, Deputy Chief Ackroyd assured the delegation “that lawbreakers would be arrested and dealt with according to the law,” and that he would not allow any of his officers to participate in the harassment queers on Halloween.¹⁴⁹ However, as in previous years, Halloween 1979 was a chaotic scene. Chris Bearchell noted that over 2,000 heterosexuals showed up to harass gays, lesbians, and drag queens. The police were unable, or unwilling, to invest the necessary resources to prevent the formation of the large crowd, and as a result the violence of previous years continued. Police Sergeant Keightley argued that they “handled the

¹⁴⁷ Interview with Brent Hawkes, June 18, 2013, June 18, 2013.

¹⁴⁸ “Straight hate on Hallowe’en,” *The Body Politic*, December 1978: 13.

¹⁴⁹ Ross Irwin, “Cops meet with gay community, say they’ll halt Hallowe’en mob,” *The Body Politic*, November 1979: 11.

situation effectively,” as they were able to prevent the crowd from forming until after 8pm, and they made over 130 arrests.¹⁵⁰

This was insufficient for the RTPC membership and they continued to be frustrated in their attempts to change Toronto policing. Maloney was given a mandate by RTPC members to continue efforts with the Working Group and to assist in the coordination of the defense of the found-ins from the Hot Tub. They had sufficient reason to believe that the keepers of the Hot Tub were embroiled in a criminal conspiracy, so the group opted to not offer support for the keeper charges.¹⁵¹ The executive worked to increase fundraising efforts by launching a “supporter” campaign to raise funds for those subscribing to a new RTPC newsletter entitled *Newsbreak*.¹⁵² There were other efforts including a bake sale and an antique auction, but none of these were fruitful. The supporters campaign launch party on December 15 was ill attended, and Dean Haynes, the RTPC fundraiser, resigned his position due to a lack of volunteers.¹⁵³ Sociologist George Smith joined the RTPC in December 1979 and his influence over the group was immediately apparent.

Smith was well-known to activist networks in Toronto, including the *Body Politic*. In an effort to connect the RTPC with the community, they changed the name of their newsletter from *Newsbreak* to *Action!*, which provided updates on the committee’s activities and gave notice for upcoming meetings and events.¹⁵⁴ In preparation for the policy conference scheduled for May, Smith helped prepare a draft constitution, which set broad policy goals and established rules for Committee elections.¹⁵⁵ At Smith’s suggestion, volunteers utilized the new RTPC phone tree to urge members to attend.¹⁵⁶ The conference

¹⁵⁰ Christine Bearchell, “Just like last year: cops fail to stop violent Hallowe’en mob,” *The Body Politic*, December 1979: 14.

¹⁵¹ “RTPC Public Meeting Minutes,” Brian Mossop Personal Files, October 15, 1979.

¹⁵² “RTPC Executive Meeting – Minutes,” CLGA, RTPC (1984-002), Box: 1, File: 9, November 26, 1979: 2.

¹⁵³ “RTPC Executive Meeting – Minutes,” CLGA, RTPC (1984-002), Box: 1, File: 9, December 18, 1979: 2.

¹⁵⁴ “Action! The RTPC Newsletter,” CLGA, RTPC (84-015), Box: 1, File: 1, January 1980.

¹⁵⁵ “RTPC Draft Constitution,” CLGA, RTPC (1984-002), Box: 1, File: Constitution, February 1980.

¹⁵⁶ “RTPC Executive Meeting – Minutes,” CLGA, RTPC (1984-002), Box: 1, File: 9, April 28, 1980: 3.

was held on May 4, and it began with an evaluation of the group's "hits" and "misses" from the previous year. Of the "hits," the various constituents of the RTPC were pleased with the group's work on closing the washroom porthole at the Parkside, and they credited the RTPC with a new policy adopted by the police to not inform third parties regarding arrests, which was largely the work of Maloney and the Working Group. The sit-in at the Attorney General's office, and the fact that the RTPC had a liaison with the black community, were also seen as major successes of the organization's first year.¹⁵⁷ The misses, however, tell a different story. For one, fundraising had seen a significant drop, and despite the successful launch of *Action!*, there was insufficient communication between the RTPC executive and their financial backers. There was the impression that the RTPC was unclear about the real issues in the Barracks case, particularly since there was a lack of communication with the lawyers and defendants were not being included in the work of the group. The executive, under the leadership of Lee, was viewed as "inflexible," and he was urged to accept more representation from the RTPC's various working groups and sub-committees. Finally, some criticized a perceived "tilt of [the] group toward radical gay politics."¹⁵⁸

Maloney argued in defense of the political actions he spearheaded for the RTPC. He conceded that a disconnect was evident between the group and the community, but he argued that this was due to the "politics of opportunism...taking advantage of whatever opportunities others' acts and timing gave us, rather than taking initiatives ourselves."¹⁵⁹ The RTPC history to this point had been a series of reactions: the Barracks raid; Gary Donovan notifying Franco's employer; the two *News and Views* articles; PC Puce and his homophobic statements; the "deviant" listing at the Toronto Board of Education event "Cop Shop"; the raid on Franco's home; the Hot Tub Club raid; and Halloween at the St. Charles Tavern. For Maloney, these represented political opportunities for a public relations campaign

¹⁵⁷ "Summary of discussion at the RTPC policy conference," CLGA, RTPC (1984-002), Box: 1, File: 2, May 4, 1980.

¹⁵⁸ *Ibid.*

¹⁵⁹ *Ibid.*

against the police. For others, including Smith, this represented the “politics of distraction,” where a broad array of unfocused campaigns led the group astray, while he advocated for a “policy of deliberate alignments.”¹⁶⁰ The group decided on their priorities: first, to advocate for the “repeal of criminal laws on private consenting sex;” second, to aid in the “defence of those harassed under the law until repeal;” and last, to undertake “preventative action to protect minority groups selectively penalized under existing laws.”¹⁶¹ In covering the conference, the *Body Politic* reported that the RTPC’s most notable achievement was altering “the relationship between the black and gay communities. Practically non-existent before, ties seem to have been strengthened as both groups grew to realize they were facing similar problems.”¹⁶² And yet, Maloney’s minority rights strategy was demoted and considered subservient to the other priorities. For him, this was his exit as a member of the RTPC. He opted instead to devote his full efforts to helping his friend and former business partner, George Hislop, run for aldermen in the 1980 Toronto municipal election.

Hislop, the 1980 Municipal Election, and the RTPC Financial Conflict

Prior to his resignation, Maloney had already begun to shift his police reform efforts away from the RTPC in favour of organizing for Hislop. While there were clear ideological differences, this separation was amicable. Maloney was consistently clear that his activities would revolve around the Working Group and on building coalitions with CGRO on human rights matters.¹⁶³ In February, the RTPC granted Maloney and the Hislop campaign access to the group’s political membership list.¹⁶⁴ In a packed auditorium of more than 200 supporters on March 13, Hislop named Maloney as his campaign manager and the relationship between minority communities and the police became the key plank of his election

¹⁶⁰ Ibid.

¹⁶¹ Ibid.

¹⁶² Robert Trow, “Right to Privacy Committee evaluates year at policy meeting,” *The Body Politic*, June 1980: 16.

¹⁶³ “RTPC Executive Meeting – Minutes,” CLGA, RTPC (1984-002), Box: 1, File: 9, January 28, 1980: 2.

¹⁶⁴ “RTPC Executive Meeting – Minutes,” CLGA, RTPC (1984-002), Box: 1, File: 9, February 25, 1980: 4.

platform.¹⁶⁵ At the RTPC general meeting on May 12, a motion was passed that “officially (and warmly) thanked [Maloney] for all of the assistance he has given the RTPC towards obtaining its ends.”¹⁶⁶

Elections for executive positions were held at this meeting. Lee was acclaimed as a chair, Terry Farley as secretary, and George Smith as treasurer.¹⁶⁷ Lee’s friend Don Barlow agreed to the position of fundraising coordinator, but there were no willing volunteers to take on Maloney’s former position as the political action chair.¹⁶⁸ As a result, this responsibility fell to Lee, who suggested the RTPC take a hiatus through the summer to avoid a “duplication of efforts.”¹⁶⁹ Smith used this as an opportunity to propose structural changes to the democratic nature of the group, but this was an exclusively internal discussion.¹⁷⁰ Political engagement over policing was thus focussed on the Hislop campaign.

Hislop was a candidate for alderman of Ward 6, a downtown district which included a significant queer community. He earned key political endorsements for office. This included the Association of Gay Electors (AGE), a group of activists, business owners, and gay organizations that sought to organize in favour of gay and gay-friendly candidates for political office.¹⁷¹ He was also endorsed “by a vote of 199 to 161” by the Ward 6 Community Organization. Initially, the campaign was treated by the *Body Politic* and others as “merely a wild idea,” but these endorsements turned Hislop into “a credible, even desirable, candidate.”¹⁷² His candidacy was further legitimized by Elaine Carey of the *Toronto Star* who labelled him the “unofficial mayor of Toronto’s homosexual community.”¹⁷³ The animosity between the *Body Politic* and gay business was briefly silenced by Hislop’s candidacy. Collective member Ed Jackson declared that the campaign was “a focus of visibility and a legitimization of the community that has

¹⁶⁵ Gerald Hannon, “Hislop gets AGE nomination to seek Ward 6 Alderman seat,” *The Body Politic*, April 1980: 9.

¹⁶⁶ “RTPC General Meeting – Minutes,” CGLA, RTPC (1986-002), Box: 1, File: Minutes, May 12, 1980: 1.

¹⁶⁷ *Ibid*, 3.

¹⁶⁸ *Ibid*, 4.

¹⁶⁹ *Ibid*, 8.

¹⁷⁰ “RTPC Executive Meeting – Minutes,” CLGA, RTPC (1984-002), Box: 1, File: 9, July 28, 1980: 3.

¹⁷¹ Gerald Hannon, “Hislop gets AGE nomination to seek Ward 6 Alderman seat,” *The Body Politic*, April 1980: 9; Dick Beddoes, “Gay’s name a ballot first,” *Globe and Mail*, March 14, 1980: 8.

¹⁷² Ed Jackson, “Ward Healer,” *The Body Politic*, June 1980: 21-23.

¹⁷³ Elaine Carey, “A metro minority shows its strength,” *Toronto Star*, August 31, 1980: A10.

never happened before. We've always been viewed as an illegitimate group, a special interest pushing an idea that has to be suppressed."¹⁷⁴ Forces of sexual suppression were mobilized during Hislop's campaign.

Conservative religious groups injected a homophobic tone into the election rhetoric. Mayor John Sewell spoke in defense of the *Body Politic* in January 1979, marking the one-year anniversary of the raid on the community newspaper.¹⁷⁵ Sewell publicly endorsed Hislop as the candidate for Ward 6, and this motivated a small group of religious conservatives to devote their resources to ousting the Mayor and his allies.¹⁷⁶ The League Against Homosexuals (LAH) spurred a moral panic by distributing pamphlets and flyers around the ward, stating that "queers do not produce: they seduce!" Among other inflammatory comments made in the flyer, the LAH referenced the summer of 1977 with a warning to parents: "remember well little Emanuel Jacques; your child could be next."¹⁷⁷ On October 19, just a few weeks prior to election day, a Yonge Street businessman named Stewart Newton organized a rally at Nathan Philips Square to "clean up City Hall" of those who had "sold out to the gay lobby."¹⁷⁸ More than 250 people attended Newton's rally, with the *Toronto Star* reporting that the crowd was called upon to defeat Hislop, Mayor Sewell, and ten trustees of the Toronto Board of Education who complained of the "deviant" classification at the "Cop Shop" event.¹⁷⁹ The trustees had passed a resolution "forbidding discrimination on the basis of sexual orientation," and they had proposed a "homosexual liaison committee," which would have implemented a homophobia awareness program, both of which fuelled this moral panic.¹⁸⁰ Sewell's support of Hislop and the gay community

¹⁷⁴ Ibid.

¹⁷⁵ Robert Sheppard, "It's not illegal to be gay, Sewell tells rally," *Globe and Mail*, January 4, 1979.

¹⁷⁶ Alan Christie, "Sewell launches Hislop election drive," *Toronto Star*, September 4, 1980: A3.

¹⁷⁷ "League Against Homosexuals Flyer," CLGA, Arnold Bruner (98-050), Box: 2, File: 8, N.D. 1980.

¹⁷⁸ "News Release: Yonge Street Businessman Campaigns to Clean Up City Hall," CLGA, Arnold Bruner (98-050), Box: 2, File: 8, October 16, 1980.

¹⁷⁹ Patricia Hluchy, "250 protest homosexual power politics," *Toronto Star*, October 20, 1980: A3.

¹⁸⁰ Trish Crawford, "Homosexual liaison plan scrapped after outcry," *Toronto Star*, September 30, 1980: A3.

led to his own sexuality being questioned, highlighting how political the issue of sexual orientation had become.¹⁸¹

The *Toronto Star* reported that the “homosexual issue [had] been raised over and over again in various of the aldermanic races, in the campaign for trustee on the Toronto Board of Education, and even in the Sewell-Eggleton competition.”¹⁸² One mayoral candidate, Anne McBride, stated that she was running for mayor because she was “opposed to militant homosexual voices in the community,” and that she considered “homosexuality a deviant lifestyle.”¹⁸³ Liberal Party member and candidate for mayor Art Eggleton also contributed to this. Eggleton attacked Sewell for joining forces with Hislop, arguing that the two candidates were “facilitating San Francisco-style gay power politics in Toronto at a time when parents in this city are concerned with the recent action of the Toronto Board of Education.”¹⁸⁴ However, Eggleton was more careful following the outrage over his remarks, stating in the *Globe and Mail*, “I am not going to run an anti-homosexual campaign. Hislop has a right to run for office like anyone else.”¹⁸⁵ In letters to the editor, both Hislop and outgoing Ward 6 Alderman Allan Sparrow chastised this discourse of the campaign. Hislop complained that two consecutive front page stories regarding his sexuality revealed the *Star* to be “acting like People Magazine.”¹⁸⁶ Sparrow stated that their treatment in the press was a simple act of “gay baiting by *The Star*.”¹⁸⁷ These conflicts were linked to one of the central issues of the election: judging the actions of the Metropolitan Toronto Police.

¹⁸¹ “Are you homosexual? Sewell asked,” *Toronto Star*, October 22, 1980: A3.

¹⁸² “Municipal election stumbles at starting line,” *Toronto Star*, October 26, 1980: B7.

¹⁸³ “Metro Election 1980: Candidates and Issues,” *Toronto Star*, November 8, 1980: B7.

¹⁸⁴ Ed Jackson, “Media raise fear of undue gay power as Sewell endorses Hislop campaign,” *The Body Politic*, October 1980: 9.

¹⁸⁵ Alden Baker and Ian Mulgrew, “Gay issue predicted to sway civic vote,” *Globe and Mail*, September 4, 1980: 5.

¹⁸⁶ Both articles were front page and dealt with Mayor John Sewell’s support of “homosexual activist,” and “homosexual candidate,” George Hislop: Peter Goodspeed, “Sewell, Hislop unite in election campaign,” *Toronto Star*, August 30, 1980: A1; “Sewell defends election alliance with Hislop team,” *Toronto Star*, August 31, 1980: A1.

¹⁸⁷ George Hislop and Allan Sparrow, “Sexuality not the issue: Hislop,” *Toronto Star*, September 6, 1980: B3.

Contrary to convention, the police were actively involved in political campaigning during the 1980 municipal election. The first call to action by police appeared in the February edition of the police association's *News and Views* newsletter. Association member James Bredin wrote that "we are indeed facing vast social changes and if we sit idly by, we may be the victims of these changes ... if we as an association realize which way the winds of change are blowing, we may be able to influence those who wish to dictate our future."¹⁸⁸ The article cited the recent appointment of George Hislop, "an open gay," Margaret Gittens, "a Trinidadian lady," and Philip Biggin of the Union of Injured Workers to the municipal Planning Board as evidence that the police needed to become active in local politics.¹⁸⁹ Hislop's candidacy caught the attention of the police when, on December 10, 1979 he was elected by City Council to be a citizen representative on the Planning Board, which was viewed by many as a switch "from a pro-development to a more progressive community-minded stance."¹⁹⁰ Bredin's article was rebuked in the press. The *Globe and Mail* reported that two prominent Toronto attorneys, black civil rights lawyer Charles Roach, and Alan Borovoy of the Canadian Civil Liberties Association (CCLA), believed the article in *News and Views* "was offensive to the minorities involved and [was] a sign of poor leadership in the union."¹⁹¹ Mal Connolly, President of the Police Association, stood by Bredin's article and defended the idea that police should be politicized given societal changes. The *Toronto Star* published an editorial in the wake of this controversy, arguing that the police should not play any role in partisan politics. The editorial conceded that police "don't lose their rights when they put on a uniform. They can, and should, speak up for themselves." However, the *Star* believed a line was crossed when Mal Connolly was quoted in Bredin's article suggesting that the police ought to endorse candidates in

¹⁸⁸ Marina Strauss, "Police urged to lobby for political change," *Globe and Mail*, February 21, 1980: 1.

¹⁸⁹ *Ibid.*

¹⁹⁰ Robert Trow, "First open gay at City Hall, Hislop plans Ward 6 campaign," *The Body Politic*, February 1980: 13.

¹⁹¹ Marina Strauss, "Lawyers criticize police union for article on planning board," *Globe and Mail*, February 22, 1980: 5.

municipal elections. The *Star* argued that “Connolly should realize that in the British parliamentary tradition, the police force, like the army, does not take part in partisan politics.”¹⁹²

The McKay controversy began with a special presentation by Dudley Laws, a black civil rights activist, at Contact, a downtown-area alternative high school on October 2, 1979. His presentation was a scathing review of police-minority relations in the wake of the murder of Albert Johnson by two members of the Metropolitan Toronto Police. According to the memoirs of Bromley Armstrong, Johnson was shot by police officer William Inglis on Sunday August 26, 1979. Inglis shot Johnson after illegally entering Johnson’s home and confronting the “eccentric” man in his bedroom. Armstrong insisted that the Johnson murder was a reminder that the black community needed to “ensure that the police were held accountable for their actions.” Unfortunately, “most members of Toronto’s Black community stood on the sidelines ... [but] to the community’s credit, Dudley Laws, Charles Roach, Denham Jolly and a number of us got together and started a series of demonstrations and demanded that an investigation take place.”¹⁹³ In Laws’ presentation to students, he repeated these demands for an independent inquiry into the deaths of Albert Johnson and Buddy Evans, who had been killed by police in 1978. According to police, students attending the presentation made complaints that Laws was promoting hatred toward the police.¹⁹⁴ The Toronto Board of Education refused to cooperate with the investigation, although teachers were told that they could contact the police “if they wanted to talk about the speech.”¹⁹⁵

Police Commissioner Winfield McKay intensified the dispute by sending a letter in response to a March 13, 1980 article by Dick Beddoes in the *Globe and Mail*.¹⁹⁶ Beddoes’ column was a review of newly selected Chief of Police Jack Ackroyd. First, he quoted Alderman Allan Sparrow, speaking for the

¹⁹² “No police role in partisan politics,” *Toronto Star*, February 22, 1980: A8.

¹⁹³ Armstrong and Taylor, *Bromley: Tireless Champion for Just Causes*, 212-213.

¹⁹⁴ Howard Fluxgold, “Police upset school board,” *Globe and Mail*, December 11, 1979: 5.

¹⁹⁵ “Teachers impeded probe, police say,” *Globe and Mail*, January 16, 1980: 4.

¹⁹⁶ Dick Beddoes, “Mostly cheers for a new chief,” *Globe and Mail*, March 13, 1980: 8.

Working Group, who hailed Ackroyd's appointment: "[he] has gone out of his way to establish good links with the minority communities."¹⁹⁷ The day before Beddoes' column, a group of civil libertarians led by Alan Borovoy appeared before Givens and the Commission to protest the police conduct at Contact School in investigating Dudley Laws. Beddoes concluded his column by saying that "if the police cared about what Dudley Laws has said about police administration in this town, they could have apprehended him at any number of public forums. He has been open, obvious and loud. To bother a school is to suggest the police want to control the curriculum."¹⁹⁸ McKay was incensed by Beddoes' article. He stated, "I have read you for many years and enjoy your column. Mind you, there are times when I consider your opinions not only controversial but dumb," and he characterized the column in general as "eulogizing the opinions of misfits like George Hislop or Susan Hunter-Harvey [of the Toronto Board of Education]."¹⁹⁹ Eight city alderman sent a letter to Ontario Attorney General Roy McMurry seeking the censure and dismissal of McKay.²⁰⁰ Sparrow and Hislop attended the April 3 meeting of the Police Commission in an attempt to have the issue raised for discussion.²⁰¹ Although they were not successful, McKay used the opportunity to make another statement to the media. He was unrepentant regarding his letter, stating that the term "misfit," was not "a particularly harsh term, and I don't regret using it."²⁰² McKay further entrenched his position by calling Dudley Laws a "rabble-rouser," and by expanding upon his ad hominem attack of George Hislop, he stated

without equivocation I can state that Mr. Hislop, and those he purports to represent, deserve the same respect and protection by police afforded all society. No commission member will tolerate abuse of any homosexual simply because of his persuasion. Where we lose sympathy with some homosexuals, and where they frequently clash with our police, is when laws are broken and indecency or

¹⁹⁷ "Ackroyd's appointment welcomed, but Adamson's retirement regretted," *Globe and Mail*, March 13, 1980: 5; Arthur Johnson, "New man at the top: Ackroyd to head police, says budget blocks reform," *Globe and Mail*, March 13, 1980: 1.

¹⁹⁸ *Ibid.*

¹⁹⁹ Dick Beddoes, "Protest draws return fire," *Globe and Mail*, April 2, 1980: 8.

²⁰⁰ Ian Mulgrew, "Right to know reasons for police raids sought," *Globe and Mail*, April 3, 1980: 4.

²⁰¹ "McKay won't retract remarks," *Globe and Mail*, April 4, 1980: 5.

²⁰² Dick Beddoes, "Remarks call for dismissal," *Globe and Mail*, April 4, 1980: 8.

similar charges laid. Then we hear screams of harassment and infringement of civil rights.²⁰³

Ultimately, there were no consequences for McKay. He received some level of support on the basis that although he served on the Police Commission, he was still entitled to express an opinion in the press.²⁰⁴ The group of aldermen on City Council voted to send a message to the Commission to hold the police commissioners to “the same code of conduct that it demands of police,” referencing the “Declaration of Concern and Intent” made by then Police Chief Harold Adamson after the 1979 *News and Views* controversy.²⁰⁵ At an April 17 meeting of the Police Commission, a group of 25 protestors led by Alderman Allan Sparrow and Fiona Nelson of the Toronto Board of Education were evicted from the proceedings because the Commissioners refused to hear any comment on McKay’s public comments.²⁰⁶ Attorney-General Roy McMurtry was urged to intervene in the dispute, but he was initially content to leave the issue to rest.²⁰⁷ However, he was enraged when McKay expanded his rhetoric to include the municipal election. McKay attended a meeting of a group called Alternative Forum in Etobicoke on May 22, where he argued that “we’ve got to get away from the fear of criticizing a guy because he’s got a different color.”²⁰⁸ His self-defence of his comments on Dudley Laws continued with a reaffirmation of his comments against George Hislop. In specifically referencing Hislop’s campaign for alderman, McKay stated that “if that guy is elected, I just don’t understand what goes on in the minds of the people who would elect him.”²⁰⁹ Roy McMurtry publicly rebuked McKay for making statements about individuals that “are often perceived as an attack on an entire group,” and he urged McKay to “avoid this kind of controversy.”²¹⁰ The McKay incident also prompted the Police Commission to finally act on one of the

²⁰³ “Letters to the Editor: Mr. McKay replies,” *Globe and Mail*, April 9, 1980: 6.

²⁰⁴ Dick Beddoes, “Commissioner gets support,” *Globe and Mail*, April 16, 1980: 8.

²⁰⁵ “Follow own rules, police board told,” *Globe and Mail*, April 15, 1980: 4.

²⁰⁶ Ian Mulgrew, “Police board evicts protesters planning to denounce McKay,” *Globe and Mail*, April 18, 1980: 5; Helen Bullock, “The last thing I am is a racist, says McKay,” *Toronto Star*, April 19, 1980: A12.

²⁰⁷ Ian Mulgrew, “McMurtry ‘concerned,’ but wont tell McKay to quit,” *Globe and Mail*, April 22, 1980: 4.

²⁰⁸ “Color no bar to criticism police commissioner says,” *Toronto Star*, May 23, 1980: A14.

²⁰⁹ *Ibid.*

²¹⁰ “McMurtry to McKay: Better button your lip,” *Toronto Star*, May 27, 1980: A4.

1979 demands from the RTPC and the Working Group to appoint a senior police official to act as a liaison officer between the police and minority groups, although “minority leaders immediately branded the move as ‘tokenist.’”²¹¹

Despite McMurtry’s intervention, the police continued to campaign against Hislop in the election. On October 17, the *Toronto Star* obtained a confidential memo sent to 5,400 police by the police association which claimed that “your association is launching a special project this fall,” in which they focussed on working in the election, and highlighted “in particular Ward 6.”²¹² The memo specifically referenced Hislop, stating “We don’t subscribe to his philosophy or approach to life.”²¹³ The *Toronto Star* published a second editorial calling on the police to remain outside of the municipal election, arguing that “if a police force is perceived as speaking out as a group against a homosexual candidate, that can only reinforce the feeling of persecution that some members of this particular minority already have.”²¹⁴ In spite of this public rebuke, more than 100 police officers in 52 Division helped Gordon Chong, Hislop’s conservative rival, to erect campaign signs throughout the ward.²¹⁵ Then, on October 23, the public reception desk at 52 Division contained a stack of leaflets from the LAH entitled “Queers Do Not Produce: They Seduce!” The police denied any involvement with the flyers, but the “chairman of the League Against Homosexuals says the league hasn’t put any leaflets in police stations without police knowing they’re there.”²¹⁶

The November 10, 1980 municipal election was viewed as a referendum on the conduct of the police, but both George Hislop and John Sewell lost. This was a surprise, as the *Body Politic* predicted that Sewell would win another term and that Hislop would become the senior alderman.²¹⁷ Hislop lost

²¹¹ Robert Trow, “McKay continues attacks on gay and black leaders,” *The Body Politic*, August 1980: 15.

²¹² Alan Christie, “Police union working to defeat Sewell and Hislop,” *Toronto Star*, October 17, 1980: A1-A2.

²¹³ Ibid.

²¹⁴ “Don’t politicize the police,” *Toronto Star*, October 18, 1980: B2.

²¹⁵ “Not after Sewell or Hislop police union boss insists,” *Toronto Star*, October 21, 1980: A3.

²¹⁶ Virginia Corner, “Police displayed anti-homosexual leaflets: Hislop,” *Toronto Star*, October 24, 1980: A16.

²¹⁷ Ed Jackson, “The hot little issue gets big,” *The Body Politic*, November 1980: 15.

to Gordon Chong and Dan Heap, who went on to represent Ward 6 from 1980 to 1982.²¹⁸ Tom Warner, who represented the Association of Gay Electors (AGE), said in a campaign post-mortem that one of the main reasons Hislop lost was because of inflated expectations over his campaign. He stated, “everyone assumed he would win the Metro seat so they didn’t get out to vote.”²¹⁹ Sewell lost his election bid to Art Eggleton. Paul Walter of the police association specifically praised the results in Ward 6, and he argued that “Toronto gave its police force a vote of confidence yesterday and showed it doesn’t want sensationalism attached to policing.”²²⁰ He elaborated, “I guess rather than make a personal attack on Hislop, let’s just say the choice the voters made is one which is well supported by members of the Metropolitan Toronto Police Association.”²²¹ The election loss closed a frustrating year for Toronto’s gay and lesbian political community.

There were, however, some victories achieved by Hislop, Maloney and the RTPC in 1980. Maloney’s influence in the Hislop campaign brought closer relationships with the city’s minority communities. The *Body Politic* concluded that “the homophobes and the racists in the police force and elsewhere will face much less opposition than they have for the last two years.”²²² The RTPC supported the Association de la communauté gaie du Québec (ADGQ) in the aftermath of an April 23 raid on the Sauna David, a Montreal gay bathhouse.²²³ There were 52 charges of being found in a common bawdy house, 15 charges of gross indecency, and six were charged with keeping a common bawdy house.²²⁴ The RTPC’s Brian Mossop proposed that the Committee develop closer ties to the ADGQ, since it was

²¹⁸ “Civic Elections 1980: Results,” *Toronto Star*, November 11, 1980: A12.

²¹⁹ Kevin Scanlon, “Hislop organizer says loss shows you can’t win by wishful thinking,” *Toronto Star*, November 12, 1980: A11.

²²⁰ Jackie Smith, “Police regard election as vote of confidence,” *Toronto Star*, November 11, 1980: A3.

²²¹ Victor Malarek, “Police hope Eggleton keeps word,” *Globe and Mail*, November 11, 1980: 11.

²²² “Losing and learning,” *The Body Politic*, December 1980: 8.

²²³ Miriam Smith, “Nationalism and Social Movement Politics: Gay and Lesbian Rights and the Effect of the Canadian Charter of Rights and Freedoms in Quebec,” in Michael D. Behiels and Matthew Hayday, eds., *Contemporary Quebec: Selected Readings and Commentaries*, Montreal and Kingston: McGill-Queen’s University Press, 2011: 366.

²²⁴ Stuart Russell, “Montreal Police raid on Sauna David sparks largest protest since Truxx raid,” *Body Politic*, June 1980: 9.

“unlikely that any defense fund similar to the RTPC will be set up.”²²⁵ The RTPC, along with Hislop and Hawkes, achieved another political victory at the Parkside Tavern, where the police were using a peephole to spy on patrons using the bar’s washroom. Parkside regular Brian Dedora remembered the washrooms:

Word would pass around the bar fairly quickly if the side door can was occupied, which meant if you went there to take a piss you had to be careful. When you entered and took a sweeping look at the heat grate above the urinals you just might get a glimpse of the vice cop, his face chequered from the light passing through the grill, watching to see if anything public was going on; the easiest way to justify a budget because sooner rather than later someone was going to do what they’d been created for and that was to reach out and touch someone. ‘We’d better pick up some of those low hanging fruits.’²²⁶

According to the *Body Politic*, 26 people were arrested in the Parkside washroom in 1979 using this technique.²²⁷ At their November 26, 1979 executive meeting, the RTPC agreed to place pressure on the Parkside tavern, with a motion passed which stated that “Norm Boulter [owner of the Parkside] be requested to stop cooperating with police under threat of a picket.”²²⁸ In February, the gay delegation met with Norm Boulter in his office at the Parkside and agreed that Hawkes would seek an employee for Boulter who would be responsible for attending the washrooms. In a victory for both the RTPC and Hislop, the peepholes used to entrap gay men engaging in washroom sex were sealed.²²⁹ Finally, the 1980 Halloween was the first year in which gays and lesbians were able to celebrate without a homophobic egg-throwing mob harassing their festivities. The police worked in conjunction with Hawkes and Hislop to prevent the formation of a crowd outside the St. Charles Tavern. By erecting barricades to prevent loitering, a crowd was unable to form. This also came with an admission from the

²²⁵ “RTPC Executive Meeting – Minutes,” CLGA, RTPC (1984-002), Box: 1, File: 9, April 28, 1980: 6.

²²⁶ Brian Dedora, *A Slice of Voice at the Edge of Hearing*, Toronto: The Mercury Press, 2008: 107.

²²⁷ Robert Trow, “Stop police entrapment, gays tell Cop Commission subcommittee,” *Body Politic*, February 1980: 14.

²²⁸ Minutes, November 26, 1979: 3.

²²⁹ “RTPC Executive Meeting – Minutes,” CLGA, RTPC (1984-002), Box: 1, File: 9, February 25, 1980: 4.

police: Superintendent David Sproule agreed that “in previous years we failed.”²³⁰ These gains were unable to shroud the complete breakdown in the relationship between the RTPC and the gay business owners who were charged as keepers. In early 1981, the RTPC and the business owners who initially supported the organization separated because of this financial conflict.

The problem began at an executive meeting on February 25, 1980 in which Rick Stenhouse and Jerry Levy, two owners of the Barracks, engaged in a dialogue with the RTPC. Some members of the executive proposed that those who had been charged with “keeping a common bawdy house” be responsible for hiring their own professional fundraiser outside of the RTPC. This was rejected by the business owners.²³¹ At their meeting on March 24, Levy stated the RTPC should serve the interests of both found-ins and keepers, arguing that “the image of the Committee is confused” and that he was “angered by much of the politicizing, especially the common complaint that the keepers are businessmen.”²³² Levy and Stenhouse proposed that the RTPC place an advertisement soliciting fundraising donations in the popular US gay periodical *The Advocate*, allocating \$400-500 to the project.²³³ The advertisement placed in *The Advocate* was a resounding failure for the RTPC. Smith, as the treasurer, raised the issue of *The Advocate* ad at the executive meeting of April 28. Although the ad had already been placed, the method of financing the project violated the RTPC’s agreement with the trustee that no more than 15 percent of donations be used toward administration.²³⁴ RLS, the company owned by Stenhouse and Levy, loaned the RTPC \$750 to place the fundraising appeal alongside an advertisement for the Barracks bathhouse. The final cost of the advertisement was invoiced at a price of \$1,080, which meant that they required donations totalling \$7,200 to ensure the administration fee

²³⁰ Gerald Hannon, “Community pressure prods police to act and Hallowe’ en hate fest comes to an end,” *The Body Politic*, December 1980: 13.

²³¹ “RTPC Executive Meeting – Minutes,” CLGA, RTPC (1984-002), Box: 1, File: 9, February 25, 1980: 4.

²³² *Ibid*, 1.

²³³ “RTPC Executive Meeting – Minutes,” CLGA, RTPC (1984-002), Box: 1, File: 9, March 24, 1980: 2.

²³⁴ Minutes, April 28, 1980: 3.

was only 15 percent.²³⁵ Mossop placed a motion to cancel the ad in *The Advocate*, proposing instead to place an ad in the less expensive *Gay Community News*, another US gay periodical. This motion was opposed by Maloney on the basis that the *Gay Community News* did not have a large enough Canadian readership to garner interest. Mossop's motion resulted in a 2-2 vote, which meant Lee was forced to vote to break the tie. He sided with Mossop, and the motion to cancel *The Advocate* ad passed.²³⁶

This presented a problem because the advertisement was not cancelled in time and RLS was invoiced by *The Advocate* in the full amount. In an update to supporters, Lee declared that "letters arriving from all parts of the United States in response to our Advocate advertisement are encouraging evidence of the international solidarity of gay liberation."²³⁷ However, by the end of January 1981, RTPC netted only \$1,023 in donations from the ad, capping the administration fee at just over \$150, far short of the \$1,080 cost for the ad. The RTPC had recently divested \$1,700 to Morris Manning, the Barracks keeper's lawyer. Lee suggested that Stenhouse make a simple accounting note to consider part of that divestment as repayment to RLS for the ad. Lee argued that it was Stenhouse, Maloney, and Levy who suggested the ad and inaccurately predicted its success, despite that "a few of us, including myself, felt strongly that the ad would not prove productive."²³⁸ Stenhouse's reply was terse, stating that "regardless of the brilliance of your prediction of the ad campaign's productivity, I will refer your suggested solution to our accountants and legal counsel for their opinions."²³⁹ He continued by stating that RLS should receive 15 percent of the money raised, regardless. Lee responded with great offense to Stenhouse's remarks. He told Stenhouse that the owners of the other bathhouses believed the Barracks to be reckless, particularly with regard to flaunting the bawdy house law as the Barracks was known for group sex. On February 4, 1981, Lee wrote to Stenhouse:

²³⁵ "Invoice from the Advocate to the Barracks," CLGA, RTPC (88-011), Box: 2, File: 10, April 30, 1980.

²³⁶ *Ibid*, 4.

²³⁷ "Letter from John Alan Lee to Advocate Ad Donor," CLGA, RTPC (88-011), Box: 2, File: 10, June 1, 1980.

²³⁸ "Letter from John Alan Lee to Rick Stenhouse," CLGA, RTPC (88-011), Box: 2, File: 10, January 27, 1981.

²³⁹ "Letter from Rick Stenhouse to John Alan Lee," CLGA RTPC (88-011), Box: 2, File: 10, January 30, 1981.

I have grown tired of a complete lack of signs of gratitude (or even of interest in keeping informed by occasionally attending a meeting) on your part for the RTPC's efforts, and on the other hand, having to apologize for or attempt to defend your management to others in the gay community in the process of trying to raise funds for the cause. I was intending not to run for re-election at the RTPC annual elections in May; your last missive has quite convinced me that this is the correct course of action. If you are not happy with the way the RTPC has served your cause, I think the best course of action would be to run for chairman yourself.²⁴⁰

This was the moment when the business owners of the Barracks separated themselves from the activities of the RTPC. If these two entities were ever associated, or politically unified as the *Body Politic's* Ken Popert suggested, it was only ever on paper. In three letters dated February 12, 1979, when the RTPC was still known as the December 9 Defense Fund, Stenhouse pledged \$5,000 to the RTPC from the Barracks, the Club Baths Toronto, and the Club Baths Ottawa. In these letters, he stated that this money would not be paid to the RTPC but was instead "paid directly to the lawyers."²⁴¹ He declared that if business remained successful, a further \$5,000 would be forthcoming. On June 2, 1980, Maloney wrote to Lee on behalf of the same three businesses that a further \$10,800 would be donated to the RTPC. However, "none of the funds committed would flow to the RTPC or the trustee, but, as in the past, would form part of the calculation of funds raised for the defence."²⁴² Whether this relationship between gay business and the RTPC was real or perceived, by February 1981 it had dissolved. The RTPC as an institution was in tatters.

Conclusion: Coalitions and Distractions

On the revelation in March 1979 that two racist and homophobic articles were published in the police association newsletter *News and Views*, it made perfect sense that the RTPC would characterize the queer community as a minority under attack akin to the city's ethnic groups. Reflecting what sociologist Alan Hunt has described as the "Umbrella Effect," the RTPC built a coalition around the issue

²⁴⁰ "Letter from John Alan Lee to Rick Stenhouse," CLGA, RTPC (88-011), Box: 2, File: 10, February 4, 1981: 2.

²⁴¹ "Letter from Rick Stenhouse to Michael Laking," Brian Mossop Personal Files, February 12, 1979.

²⁴² Letter from Peter Maloney to John Alan Lee, CLGA, RTPC, (1984-002), Box: 1, File: Correspondence, June 2, 1980.

of policing with the Working Group on Police-Minority Relations. The resourceful talents of Peter Maloney provided access to the Police Commission, in which these hearings became the Foucauldian “anchor points” where ideas of deviance were in conflict with the moral and legal discourse on sexuality. By presenting a legitimate, respectable political platform, the RTPC took the higher ground.

When the police raided Franco’s home in June 1979, the group was tilted away from a respectable approach. John Alan Lee, the group’s third chairperson after businessman Michael Laking and the Reverend Brent Hawkes, proposed to carry the group in a more radical direction. Sit-ins and civil disobedience replaced the more traditional political methods, yet the RTPC continued to find itself on the defensive. A third voice, stemming from sociologist George Smith, condemned the “politics of distraction” and articulated a new path forward, skipping the police and focussing on Criminal Code reform and legal fundraising. This new path forward could not be realized in 1980, as the municipal election hindered the RTPC’s ability to garner meaningful community participation. As the RTPC fell apart with Lee’s resignation on February 4, 1981, a group of undercover police officers were preparing for the next night, which would become the largest police raid in Toronto’s history.

Chapter 3 – Operation Soap and the RTPC Revolution

For some members of the Metropolitan Toronto Police, the 1980 municipal election served as a referendum on police conduct toward minority communities. Mayor John Sewell, who had a critical eye on the police and stood alongside the *Body Politic* during the early stages of their trial, lost to the more conservative Art Eggleton. Community leader George Hislop lost in his bid for city council. Funding was secure for the morality and intelligence bureaus of the police, and the ‘clean up’ of the city from the mid-1970s could continue unimpeded. This chapter situates Operation Soap within the context of a broader campaign to reform both police institutions and the Criminal Code. The bathhouse raids had two main effects: first, they humiliated and persecuted queer men for having consensual sex in gay private spaces, and second, they radicalized otherwise apolitical actors in the queer community, and caused a revolution of mass participation in the RTPC. After the raids, officials commissioned the Bruner Report, an inquiry into the relationship between police and the gay community. Bruner concluded that the queer community was a legitimate minority group.

Operation Soap was a six-month investigation, culminating in a mass raid on February 5, 1981. It involved hundreds of hours of undercover investigations. Following other raids on the Barracks in 1978, and the Truxx in 1977, the Metropolitan Toronto Police constructed gay sex as ‘indecent.’ Some of these sexual acts could be viewed by third parties, or took place with more than two people involved. This meant that bathhouses could be considered ‘bawdy houses,’ as defined by the Criminal Code. The police conducted a mass raid. In some cases they found gay sex. In some cases they found marijuana. However, in most cases, they found men socializing, relaxing by themselves, or enjoying a quiet soak in a hot tub.

The RTPC was in shambles. Its Chair, John Alan Lee, believed in cautious, disciplined political action. The angry and galvanized community demanded something different: the chaos of mass participation. Lee was among a small minority opposed to a massive street protest. Despite his

perspective, 3,000 protestors swarmed Yonge Street and marched through Toronto's downtown core. The day after the protest, Lee's detractors organized a coup. George Smith emerged as Chair of the RTPC, and days later when 1,000 activists met for an RTPC meeting at Jarvis Collegiate, Lee was not in attendance. This was a new, focussed RTPC that sought to harness the political outrage from the bath raids to implement Criminal Code reform. This shift strained some of the intersectional relationships that had been formed by the RTPC, particularly with lesbians. The Criminal Code was not the central source of oppression between lesbians and police, and their concerns were sometimes relegated to the sidelines of the RTPC agenda. Bruner declared that a police liaison committee was the solution, but this did not address the core issues of policing the community in 1981. Ultimately, the RTPC rallied behind two major goals: institutional reform of the police, and repeal of the bawdy house law.

February 5, 1981: Operation Soap

In the midst of the 1980 municipal election, the Metropolitan Toronto Police were secretly conducting surveillance of four gay bathhouses across the city. According to police documents, four undercover agents working out of the police's 52 Division opened an investigation into Toronto's gay bathhouses.¹ The four police agents (Constables James, Schroeter, and Delaney, as well as Sargent Gary Carter) conducted 17 undercover investigations from August 1980 to January 1981. This yielded over 24 hours of direct surveillance and observation for PC James, in addition to smaller amounts for the various partners he brought with him. These undercover agents were looking for several behaviours that could be considered grounds for a criminal charge: prostitution, masturbation (either on their own and visible to third parties, or with another person), buggery (anal sex), fellatio, or any form of group sex. This team of agents found several instances in which acts or behaviours in the baths contravened the Criminal Code. On each single visit, they discovered men masturbating by themselves or in public view. On seven of the visits, they found men having anal sex with each other. There were 22 acts of oral sex

¹ "Evidence – Observations made by PC James," CLGA, RTPC (88-011), Box: 3, File: 41, n.d.

and ten acts of mutual masturbation. The investigation was named “Operation Soap,” and with this evidence, the police began preparations for a raid. The date was chosen: February 5, 1981.

Operation Soap was a joint investigation between the Intelligence and Morality Bureaus. The organization of the Metropolitan Toronto Police in 1981 was such that both Morality and Intelligence reported directly to Chief Jack Ackroyd. This was unlike many of the other divisions of the institution, including homicide, traffic, or criminal investigations, all of which reported to a Deputy Chief.² Morality and Intelligence were headed by Staff Inspector Donald Banks, who was responsible for overseeing and implementing Operation Soap. Sargent Carter led the investigations on site, and he reported his findings to Banks.³ The notes and reports from these investigating officers detailed the alleged acts of indecency that they observed. For example, at the Barracks, Carter noted:

The officer observed a male enter one of the glory hole cubicles. The officer waited a short period of time and then opened the door to observe the male orally copulating an erect penis, which had been inserted from the next cubicle. Upon seeing the officer, the male invited him into the cubicle. In one of the rooms on the ground floor, a male with an erect penis was lying on a bed. Beside him was a can of Crisco shortening and an extremely large dildo, an item which appeared to be made of rubber and which depicted a human fist and forearm. The male was masturbating and inserting his finger into his anus.⁴

Similarly, at the Romans bathhouse, Carter observed:

... acts of buggery, indecency, oral sex, masturbation and group sex taking place in the open, either in the common areas or open-door rooms. Several patrons would lie naked in open-door rooms. Several would have erect penises and in some cases, they would be masturbating. Other patrons would cruise the hall – maze of hallways, making contact with the males in open-door rooms. Once contact was made, the cruising males would either enter these rooms and in some cases the doors to the rooms would be closed and locked. In several cases, these doors were left open and acts of buggery, oral sex, indecency and masturbation could be observed through these open-door rooms. On some

² “Police organizational chart,” CLGA, Arnold Bruner (98-050), Box: 3, File: Police, 1980.

³ Gary Carter was involved in several investigations testing the indecency section of the bawdy house law starting in early 1980. This included raids on at least two heterosexual swingers clubs. Q v. Mason, CLGA, Arnold Bruner (98-050), Box: 2, File: 17, March 4, 1981; Q v. Pitchforth and Cook, Arnold Bruner (98-050), Box: 2, File: 17, February 12, 1981.

⁴ Q v. Campbell, CLGA, RTPC (88-011) Box: 3, File: 41, November 20, 1981: 6.

occasions, a third or fourth male would be encouraged to enter the room and engage in sex acts with the males already in the room.⁵

Throughout the undercover investigations, Banks and the other agents involved consulted with Crown Attorneys. According to police documents, "it was the joint conclusion of those officers and Crown Counsel that the evidence indicated the premises were operating as Common Bawdy Houses as defined under the Criminal Code."⁶ At 7pm on February 5, Banks gathered 200 officers at C.O. Bick Police College in Scarborough. Of these 200 officers, many were from Morality and Intelligence, but they also included plainclothes officers from the various police districts across the city. They obtained search warrants for the four bathhouses they had targeted, and they prepared the citation notices and other necessary paperwork "in advance to expedite the release of those persons who could not give a lawful excuse for being on the premises."⁷ Banks established a command centre at the Intelligence Bureau, and assigned a Staff Sargent to each location of the raid.

At around 11:00pm, Ron Rosenes was sitting alone in his room at the Romans when he heard a loud commotion in the hallway. He described the noise as either loud banging on the doors adjacent to his room, or, as doors being kicked in. Before he had a chance to investigate, he heard a knock at his door. He immediately opened his door to find a police officer standing in the hallway, instructing him to move to the front of the bathhouse. When he proceeded to join the other found-ins, he discovered his cousin who he had seen earlier in the night. The two men, of Jewish ancestry, clung to each other as images of the holocaust ran through their minds. After they were processed by police and charged as found-ins of a common bawdy house, they were released.⁸ In total, there were 94 found-ins and six keepers who were charged at the Romans.⁹

⁵ Q v. Briggs, CLGA, RTPC (88-011) Box: 3, File: 41, November 2, 1981: 3-4.

⁶ "Internal Police Memo from Staff Inspector Donald Banks to Police Chief Jack Ackroyd," CLGA, Arnold Bruner (98-050), Box: 3, File: Police, February 23, 1981: 1.

⁷ Ibid.

⁸ Interview with Ron Rosenes, June 30, 2016.

⁹ "Internal Police Memo," 2.

For Duncan at the Barracks, notions of the holocaust were also on his mind. He was sitting in room 104 when he was visited by a neighbour. Although they never had sex, they often enjoyed socializing at the baths as they rested between their adventures. His friend began to smoke a marijuana joint and passed it to Duncan. It was in this moment that they heard a rumble and felt the entire building shake. Next, they could discern the sound of boots storming up the stairs. These were plainclothes officers who had begun to raid the rooms. Duncan recalls:

Just as he passed it to me was when all hell broke loose. I was so stunned; I didn't even know that I had this joint in my hand. In fact, I've often thought, I had time to react, I could have, you know, put it under the cot or something. Before I knew it there were all of these cops in my room. I didn't even know they were cops. Who were these thugs?¹⁰

They confiscated the joint and brought the men into the shower room. Duncan was then subject to a rectal search. While waiting for six other found-ins to be searched, Duncan overheard one officer say to another in reference to the showers, "it's too bad these pipes aren't hooked up to gas."¹¹ This was also overheard by the men who were forced to wait in the hallway while these searches were being conducted. According to an account from one of these men in the *Body Politic*, another officer retorted, "because then we could annihilate you."¹² One of the other found-ins who was forced into the shower room with Duncan was assaulted by the raiding officers and suffered a laceration on his face. In addition to the shower remark, this man overheard an officer say, "too bad the place doesn't catch fire, we'd have to catch them escaping custody."¹³ In a sign that not all police were as enthusiastic, Duncan recalls that a third officer in the room looked ashamed and embarrassed at the comment. After Duncan was dressed, he was escorted to his car to retrieve his identification. The officer who accompanied him expressed concern and regret toward Duncan, counselling him that the charge was not very serious and

¹⁰ Interview with Duncan, April 20, 2015.

¹¹ Ibid. This story was also covered in the media: Joe Hall, "Homosexuals fear suicides and broken marriages in wake of raids," *Toronto Star*, February 7, 1981: A7.

¹² Michael Lynch, "Bent Under Hitler, Bent Under Ackroyd," *The Body Politic*, April 1981: 28.

¹³ "Rage!" *The Body Politic*, March 1981: 11.

that he would likely receive a light punishment.¹⁴ Brian Mossop, of the RTPC, had been in the Barracks for only fifteen minutes when the raid began. He recalls that his arresting officer “actually looked rather embarrassed ... and he was very pleasant to me.” Mossop’s employer was informed of the arrest by police the next day. In response, Mossop’s employer, “told them where to go.”¹⁵ There were 23 found-ins charged at the Barracks, and one keeper.¹⁶

Arthur’s bi-monthly visit to the Club Baths was his hard-earned “reprieve.”¹⁷ On February 5, he arrived with a friend, rented a room, undressed, and wrapped a towel around his waist. He showered and walked around the hallways to see if anyone attractive caught his eye. Arthur’s favourite amenity at the Club Baths was the hot tub room, which had a glass wall. He was sitting alone enjoying a warm bath when the wall was shattered. Startled, he emerged from the hot tub and this was when one of the raiding police agents discovered him. Arthur asked the agent if he could return to his room to get dressed, but was told he had to proceed to the nearby locker-room. Shivering from both “the cold and the fear,” he carefully avoided stepping on the glass. Through the experience, Arthur was cognisant of the threat this posed to his personal life: he was married to a woman and they had family friends who worked as police officers and social workers in the courts. Before he was released, they told him that he was charged with “being found in a common bawdy house,” to which Arthur thought, “Why? There wasn’t anything wrong with the bodies I saw.” There were 46 found-ins charged at the Club Baths, and seven keepers.¹⁸

Tony Fay was promoted from cleaning rooms and attending the front desk, to being the supervisor of the Richmond Street Health Emporium. The Richmond was Toronto’s premier bathhouse

¹⁴ Interview with Duncan, April 20, 2015.

¹⁵ Interview with Brian Mossop, February 10, 2016.

¹⁶ “Internal Police Memo,” 2.

¹⁷ Interview with Arthur, February 16, 2016.

¹⁸ The police memo stated that, “a glass door was broken by a patron attempting to escape. Mr. T. Christiansen, manager of the club, was shown this damage and had no complaint.” See, “Internal Police Memo,” 2.

in 1981: it was the largest, and it had undergone a complete renovation a few months prior. The Richmond was packed. Fay remembers that there was a waitlist for the more than 100 rooms in the establishment. Fay had just finished his work shift and decided he would go to a new bar called Boots with his partner and a co-worker. When he walked to retrieve his coat, he overheard a disturbance coming from the front desk, and he overheard the attendant yelling “you can’t be back here!” Fay discovered that a man in plainclothes was behind the counter activating the buzzer that unlocked the bathhouse front door. This allowed a flood of plainclothes officers to storm the Richmond. The front desk employee recounted in the *Body Politic*:

About 11 o’clock these two guys came to the door and asked for a room and a locker. They paid, and I gave them their change, and since we were full I gave locker 25 to the guy wanting the room and put him on the waiting list, and I went on to the next customer. A few minutes later both guys came right into the kitchen and asked for their money back. I suspected a robbery and called for Tony, the supervisor, and then they grabbed me and told me to stay where I was. When Tony came in they grabbed him too and he shouted out to call the police. I looked out the window and saw all these men pouring in through the door and some of them were in uniform, and I said ‘I don’t think that’ll be necessary.’¹⁹

The employees were forced into the television room to wait. According to Fay, “we could hear banging and smashing going on and my manager, George, was going ‘We’ve got keys, we can let you into every room in this house,’ and he was basically told to ‘shut up’ and ‘sit down.’ Meanwhile, the police were taking crowbars to the place”²⁰ The Richmond was destroyed to the extent that it never reopened, and it closed permanently with a staff gathering on February 17. This bathhouse served as a set for the

¹⁹ “Rage!” *The Body Politic*, March, 1981: 11.

²⁰ At this point in the interview, Tony began banging on the table: “You could hear, you could hear, I mean they were smashing doors, I mean the picture you saw of the damage of that door, that was minor compared to some of the doors...We all sat there and said, we’ve got keys! ‘Cause I had keys, see, George had keys, all of the staff had keys to every room in the place, they didn’t have to do any damage.” Interview with Tony Fay, March 5, 2016.

1982 documentary on the bath raids entitled *Track II – Enough is Enough*.²¹ There were 126 found-ins charged at the Richmond, and six keepers.²²

Tim McCaskell was asleep ahead of an early morning economics exam when he was awakened by a housemate who had received a call from Gerald Hannon of the *Body Politic*: the police were raiding the baths and arresting hundreds of people. McCaskell came out of the closet in 1974, after discreetly attending a gay liberation day rally at Riverdale Park. From that point, he became involved with the *Body Politic* collective (which he joined in 1975), where he covered various queer political issues, such as a case of a university professor in British Columbia who was being threatened with dismissal because of his open sexuality.²³ McCaskell lived with RTPC treasurer George Smith in a “well organized” commune, which at this point occupied a house at 188½ Seaton Street. The commune was formed by some members of the Gay Marxist Study Group. McCaskell joked that they were the “Stalinist” faction of the group, but in fact they were united in an effort to better understand the linkages between sexual liberation and capitalism.²⁴ The members of the house often cordially debated intellectual issues, and it was through this dialogue with Smith that McCaskell learned of RTPC activities. Aside from this connection to Smith and the RTPC, his work on the *Body Politic* is what prompted the late night telephone call that got him out of bed, informing him that the baths were being raided by the police.

A sympathetic taxi driver was taking Gerald Hannon around downtown Toronto to the four bathhouses. Hannon advised McCaskell to proceed to the Club Baths, which was closest to the Seaton Street commune.²⁵ According to McCaskell, it was a “freezing cold night,” and by the time he traversed Allan Gardens and arrived at the Club Baths, there were a few dozen people gathered near the entrance.

²¹ Gord Keith, Jack Lemmon, and Harry Sutherland, *Track II – Enough is Enough*, Toronto: 1982, https://www.youtube.com/watch?v=iN4_8eurids

²² “Internal Police Memo,” 3.

²³ Tim McCaskell, “Vancouver: Out gay teacher fights administration,” *Body Politic*, October 1975: 6-7.

²⁴ Interview with Tim McCaskell, September 18, 2012.

²⁵ Interview with Gerald Hannon, February 8, 2016; Interview with Tim McCaskell, September 18, 2012.

The importance and magnitude of the event did not dawn on McCaskell until he started talking to one of the men charged in the raid: he found the 40-something year old man crying, and so he offered his support and a kind ear. The man McCaskell was talking to was in the closet, and was very concerned about what the charges would mean in terms of his career, his reputation, and his family. The police were collecting names from the membership lists of the baths, they were charging found-ins on a massive scale, and the buildings that housed the baths were severely damaged with crow bars and other tools used to conduct the raid. It was these three aspects of the raid that gave McCaskell a “paranoid appreciation of what was happening.” He remembers saying to others that were observing the raid: “this is some really heavy shit.”²⁶ By the time the night was over, 200 police officers raided four gay bathhouses (Club Baths, the Romans, the Richmond Street Health Emporium, and the Barracks), with 286 men charged with being “found in” in a common bawdy house, and 30 charged with “keeping” a common bawdy house. The size, scale and scope of the raids were unprecedented, and it was clear to Toronto’s community of queer activists that something had to be done in reaction to them.

At around 2am on February 6, Tony and the other keepers at the Richmond were loaded into a paddy wagon and taken to 52 Division. This police station is where several of the keepers and some found-ins were brought for additional processing. The found-ins were those who refused to be identified, those who did not have identification on them, and those who were involved in a physical altercation during the raids. According to Fay, once they arrived at the station, the Richmond keepers were left locked in the police vehicle for “at least two hours, if not more, because they couldn’t, quote, ‘find their keys.’”²⁷ The keepers were finally released and placed in a holding cell after they threatened to urinate in the vehicle, as they did not have access to a toilet. They were processed and released at around 6am. When Mossop was released from the Barracks at 2am, he joined his partner Ken Popert

²⁶ Interview with Tim McCaskell, September 18, 2012.

²⁷ Interview with Tony Fay, March 5, 2016.

and other members of the *Body Politic* who were waiting at 52 Division. It was in this moment that these activists decided to hold a meeting the following day to determine the next course of action.

By the morning, news of the raid had spread to many gays and lesbians who were living downtown Toronto, and there was a sense of anger and tension within the community toward the police. The members of the collective along with representatives from other queer groups, including Jim Monk from CGRO, met at the *Body Politic* offices to debate the method and timing of a response. McCaskell recalls that it was Chris Bearchell who insisted that a demonstration was needed that very night. Others in the room argued that there was not enough time to properly organize a protest, and that something ought to be organized at a later date. Bearchell's position on the matter garnered the most support, and so the members of the collective gathered later that afternoon at the Glad Day Bookstore to plan the logistics of the protest. They organized a sound truck and arranged the speakers. They printed posters and flyers, which were placed along Yonge Street, Church Street, and in the bars as well as the baths.²⁸ A large crew of volunteers, some hastily recruited that morning, were sent into the various commercial establishments serving the queer community. According to historian Christine Sismondo, this moment "can be viewed as an intense, fast-motion, microcosm of the previous 30 years of relationships between bars and political publications: The *Body Politic* printed 4,000 fliers urging people to protest the raids and these were distributed to the people at every gay bar in Toronto."²⁹ One of the posters distributed stated, "it is clear that the raids are related to the victory of Art Eggleton," and that it was also "related to the up-coming provincial election in Ontario, in which the minority government of Bill Davis will be seeking to gain a majority."³⁰ In addition to posters and leaflets, the *Body Politic*, through Bob Gallagher and Tim McCaskell, organized a team of marshals who were

²⁸ Peter Zorzi, "The 1981 Toronto Bathhouse Raids," [online] <http://www.onthebookshelves.com/raids.htm>

²⁹ Christine Sismondo, "Toronto the Gay: The Formation of a Queer Counterpublic in Toronto's Gay and Lesbian Public Drinking Spaces, 1947-1981" (PhD diss., York University, in progress).

³⁰ "News flash – Flyer for February 6 Demonstration," CLGA, The Body Politic (1983-009), Box: 3, File: Gay Community Leaflets: Bath Raids and Demos, February 6, 1981.

responsible for organizing the movements of the protest. These marshals met at the Glad Day Bookstore in the hours prior to the march in order to arrange speakers and to suggest ideas for the protest route.

By late evening, McCaskell once again crossed Allan Gardens, only this time he was headed to a demonstration being held on the northeast corner of Yonge and Wellesley Streets. The protest of February 6 was a spontaneous, mass demonstration of a collection of groups and unlikely allies, who occupied the Toronto streetscape with impunity. Unlike the night of the raids which was quite cold, the night of February 6 was far warmer. McCaskell described it as balmy and foggy. As he was walking toward the site of the protest, he predicted in his mind that the crowd would have roughly 50 people, and he was unsure about what would take place. The anger in the community was great, yet the police seemed intent on attacking queers and their institutions. The team who had hastily organized the protest did not have much of a plan. There would be speeches from a raised platform on the northeast corner of Yonge and Wellesley, and attendees would occupy the surrounding sidewalk. When McCaskell arrived, there were only a few dozen people, and there were no police. There was no sign of police until around midnight, at which point he observed that the crowd had grown in size to “a couple of thousand” people. Gay activist Peter Zorzi recalls hearing a voice cry out “take the street,” and the crowd walked into the intersection all at once.³¹ The organizers were caught off-guard by the immense response from the community and its allies, many attending their first ever protest. In a sense, the bath raids had accomplished something liberationists had been attempting for a decade: it politicized members of their own community, and built bridges with other communities and heterosexuals. The organizers asked Chris Bearchell, who was giving a speech, to stall for time in order to formulate a plan. She led the crowd in a now famous chant: “No more shit!”³²

³¹ Zorzi, “The 1981 Toronto Bathhouse Raids.”

³² Interview with Tim McCaskell, September 18, 2012.

McCaskell remembers that the marching plan was rather fluid, and with the crowd of three thousand protestors chanting “Fuck you 52,” it was determined that the police station used to process the men after their arrest was appropriate. On their way down Yonge Street from Wellesley, the police attempted to stop the crowd by parking police cruisers in the middle of their path. However, this did not stop them. McCaskell recalled this moment: “the police set up a line of cars at Yonge and Dundas. The crowd just rolled over them. Someone jumped up on the hood of one and pissed on the windshield as an ashen-faced cop inside stared straight ahead.”³³ At the major intersection of Yonge and Dundas streets, a Toronto Transit Commission (TTC) streetcar was blocked by the movement of the crowd. This TTC vehicle was damaged by the angry demonstrators. Once the crowd arrived at 52 Division, it was greeted with a phalanx of police officers, who by that point had fully mobilized to protect the station from any damage. McCaskell remembers sensing a possible “bloodbath,” so he and the other marshals decided to backtrack and head up University Avenue toward the provincial legislature at Queen’s Park. McCaskell was marshalling the rear of the protest to ensure that everyone kept pace as it was important that gay demonstrators not be left behind out of fear of assault from the police, or from potential homophobic violence. As Queen’s Park became visible, the front doors of the legislature appeared to be moving until a large contingent of police officers pushed the crowd back. When the crowd began to disperse, McCaskell and the other marshals waited behind to ensure the safety of “the stragglers,” although at one point (between 2-3:00am) he told a small group of overenthusiastic demonstrators that they were, “on their own.” The protest on Friday, February 6 was one of the most radical, violent, and angry political demonstrations in Toronto’s history. As Ken Popert articulated in his column in the *Body Politic*, “Friday night was a warning. I finally got angry. And I’m still angry now. Anger is what got into

³³ Tim McCaskell, *Queer Progress: From Homophobia to Homonationalism*, Toronto: Between the Lines, 2016: 140.

me and into a lot of other people that Friday night, an anger which stands for hate returned full-measure.”³⁴

Reports in the mainstream media confirmed the presence of this anger and outrage. The front page of the *Globe and Mail* on the morning after the protest reported that the police were in a scramble to contain the demonstrators: “they’re smashing cars at Yonge and Dundas,” one police officer “shouted frantically” over the police radio. Other police officers were told to park their cruisers in underground parking garages to prevent them from being destroyed.³⁵ The *Globe* also reported that twenty keepers were subject to venereal disease testing as a result of an order by Dr. William Frank of the Toronto Department of Public Health.³⁶ This was later an issue for the RTPC, as Dr. Frank made statements in the media confirming mandatory testing the day after the *Toronto Sun* published the names of the keepers.³⁷ In the *Toronto Star*, former RTPC chair Brent Hawkes and George Hislop compared the raids to “Crystal Night in Nazi Germany when the Jews found out where they were really at.”³⁸ There were reports that the damage to the bathhouses was estimated at over \$25,000.³⁹

Both the *Toronto Star* and the *Globe and Mail* revealed the wide cross section of individuals and groups who were critical of the raids. The *Star* reported that there was a “storm of criticism against the Metro police raids on downtown homosexual haunts.” The Mayors of some of the surrounding municipalities were part of this storm: North York Mayor Mel Lastman said, “I want to know why so many men (police officers) were used ... they could have raided any hotel in Metro and found the same

³⁴ This account of the protest is taken from an Interview with Tim McCaskell, September 18, 2012, and from Ken Popert, “Anger comes out,” *Body Politic*, March 1981: 17.

³⁵ Don Dutton and Nicholas Pron, “3,000 go on rampage in Metro riot,” *Globe and Mail*, February 7, 1981: A1.

³⁶ Ian Mulgrew, “VD Tests to be Ordered for Men Charged in Raids on Steambaths,” *Globe and Mail*, February 12, 1981: 5.

³⁷ Jan Louder and Kathy English, “Whipping at Steambaths: Gay Link to Mob Suspected,” *Toronto Sun*, February 8, 1981: 2; “20 Accused Face VD Tests,” *Toronto Sun*, February 12, 1981: 65; “RTPC Press Release on VD Testing,” CLGA, RTPC (88-011), Box: 2, File: 8, February 19, 1981.

³⁸ Joe Hall, “Homosexuals fear suicides and broken marriages in wake of raids,” *Toronto Star*, February 7, 1981: A7.

³⁹ *Ibid.*

type (sexual acts) of thing.” East York Mayor Alan Redway suggested, “perhaps the police could have better employed their resources looking after the local neighborhoods making sure there were no robberies or break-ins.” Toronto Alderman Gordon Cressy stated that he was “concerned about the manner in which the raid was conducted. There are allegations of excessive force.”⁴⁰ Toronto Board of Health chair Jack Shapiro, Liberal MPP Margaret Campbell, black community leader Wilson Head, *Saturday Night* editor William Kilbourn, Rabbi Gunther Plaut, and General Counsel of the Canadian Civil Liberties Association Alan Borovoy were aligned with the gay community’s protest of the police action. Only Mayor Art Eggleton, Chief Jack Ackroyd, Attorney General Roy McMurtry, Metropolitan Toronto Chairman Paul Godfrey, and the *Toronto Sun* stood behind the raids.⁴¹ There was criticism against both the tactics used in the raids and the strength of the police. In one instance, it was reported that a police officer told a protestor, “you know a lot of police lose their hats in situations like this, and this is good protection because badges are hard to repair.”⁴² Police had removed their badges so that they could not be identified for possible complaints.⁴³ The *Globe and Mail* ran an editorial declaring:

The Metro Toronto Police claim to be understaffed. Yet they have been able to waste men on six months of investigation, on a 150-man raid, on policing the ensuing reaction, on the court work that will result. And all for suspicion of conduct which is legal between two consenting adults in private. Other minorities must wonder if so gross an action against so many citizens by such a large group of policemen, with the support of the Chief of Police, means that no minority is safe from harassment in a city where it could happen.⁴⁴

Surprisingly, the Reverend Ken Campbell, who used his group Renaissance International to consistently oppose the gay community, was also critical of the raids: “I question the appropriateness of laws which

⁴⁰ Joe Hall, “Protests mount over police raids on homosexuals,” *Toronto Star*, February 10, 1981: A13.

⁴¹ See for example: “Politics and Law,” *Toronto Sun*, April 2, 1981: 10; Alan Christie, “Godfrey Backs Police in Raids,” *Toronto Star*, February 11, 1981: A11.

⁴² “Witness statements for February 6 protests,” CLGA, The Body Politic (1983-009), Box: 1, File: OHRC – Bill 7 Background: 1.

⁴³ Hall, “Protests mount over police raids on homosexuals.”

⁴⁴ “Heavy hand of the law,” *Globe and Mail*, February 8, 1981: 6.

result in an intrusion on what is going on between consenting adults in private.”⁴⁵ This was a dramatic change from previous incidents that occurred between police and the gay community. The bathhouse raids, and the resulting protest, created immeasurable political power from a large cross-section of Toronto’s many communities. Queer people from various groups, including CGRO, GATE, LOOT, GLU, the Body Politic, and the Metropolitan Community Church came together in a heated moment of resistance. One group, however, was notably missing from the action: the RTPC.

RTPC Coup and the Creation of the Public Action Committee

On Saturday February 7, RTPC Chair John Alan Lee called a meeting to discuss the raids and to plan the next course of action for the group. The RTPC was in the best institutional position to handle the implementation of resistance beyond the streets, and yet it was mired with internal problems. First, there were issues regarding financial agreements with the Barracks owners, which prompted Lee to declare on February 4, the day before Operation Soap, that he was frustrated with the RTPC and would not seek re-election as Chair.⁴⁶ Lee was also vehemently opposed to holding a demonstration the night after the raids. After the protest, he admonished “the sort of near-mob action encouraged at Friday’s demonstration,” preferring instead, “a well-marshalled, disciplined occupation of one of Toronto’s major intersections, not at midnight but at Saturday noon.”⁴⁷ Lee did not carry forward with a plan to occupy an intersection, opting instead to call a meeting of the RTPC on Saturday at noon at Buddy’s, a local gay tavern, to discuss the group’s next steps. When Lee arrived, he observed RTPC treasurer George Smith (who had arrived earlier) rearrange the chairs of the meeting. In his diary, Lee stated:

I arrived early at Buddy’s to set up the chairs, but one of the truly malevolent gay men I know, arrived even earlier. He moved all the chairs and tables to one end of the bar, and placed himself in the “chairman’s seat.” As people began arriving he invited them to join “his” meeting. Some were “in on the secret” and joined

⁴⁵ Patricia Horsford and Ian Austen, “Evangelist critical of raids on bath houses,” *Globe and Mail*, February 7, 1981: 1.

⁴⁶ “Letter from John Alan Lee to Rick Stenhouse,” CLGA, RTPC (88-011), Box: 2, File: 10, February 4, 1981.

⁴⁷ “Letter from John Alan Lee to the RTPC Executive and members,” CLGA, RTPC (88-011), Box: 2, File: 10, February 9, 1981.

him. Others sat with Don and me. Our oleaginous enemy initiated discussion of methods to raise funds for legal defence of the “found ins” at the raids. Don and I were as smoothly displaced from leadership as I have seen communist members of a trade union take it over. The hijackers used the finest Leninist tactic – they entirely ignored our existence. Don and I consoled each other, and left.⁴⁸

George Smith had a different vision for the RTPC than John Alan Lee. From the moment he joined the executive in December 1979, he was an advocate for reforming the organization and the fundamental purpose of the group. He joined after a tumultuous first year for the RTPC, in which business interests were seen as manipulating the group for its own purposes.⁴⁹ When Lee was made Chair in an attempt to separate business from the leadership of the group, he pursued an organizational structure that was labelled “popular” by RTPC members Brian Mossop and Tony Souza.⁵⁰ In this structure, Lee and the other individual executive members were able to speak for the group or take action without consultation with the membership. When Smith joined, he sought a reorganization where open-membership subcommittees would report to a general meeting, and this would serve as the ultimate decision-making body of the group.⁵¹ As treasurer, he worked to combine the efforts of fundraising with politicizing the community, making the argument that community involvement was as important as raising funds.⁵² Smith increasingly raised the question of Criminal Code reform, and he believed that the group should “align” with the ADGQ in Montreal.⁵³ This was incompatible with Lee’s centralized style of leadership. Beyond style, there were differences in ideology between Lee and many of Toronto’s queer activists, as evidenced by his minority voice opposing a mass demonstration. Lee quit the RTPC on a sour note:

⁴⁸ It is unclear who he meant by “Don,” as there were several individuals in the RTPC named Don, including Don Franco and Don Barlow. John Alan Lee, “Love’s Gay Fool, an Autobiography,” http://www.johnalanlee.ca/chapters/chapter_19.htm [online].

⁴⁹ Ken Popert, “Gay Business: Its Interests and Ours,” *The Body Politic*, May 1979: 18.

⁵⁰ Tony Souza and Brian Mossop, “RTPC Methods,” Brian Mossop Personal Files, October 1979.

⁵¹ “Summary of discussion at the RTPC policy conference,” CLGA, RTPC (1984-002), Box: 1, File: 2, May 4, 1980.

⁵² “Minutes of RTPC Executive Meeting,” CLGA, RTPC (1984-002), Box: 1, File: 9, December 18, 1979: 1.

⁵³ “Minutes of RTPC General Meeting,” CLGA, RTPC (1984-002), Box: 1, File: 9, January 12, 1981: 3.

There are clearly ambitious men seeking power in the gay community at this time, and ready to exploit the anger generated by the raids. They have the ambition; let them provide the executive energies. I am not prepared to do their work, nor listen to their chanting or their rabble-rousing speeches. A time will come for more calm and reasoned approaches. I will be available then.⁵⁴

After rearranging the chairs and thus implementing his coup, Smith gathered the new RTPC executive and began preparations for a mass community meeting. At first, the meeting was to be held at the 519 Community Centre on Church Street, but it was clear to the RTPC organizers that this would be insufficient. Jarvis Collegiate, a high school located not far from the emerging Church Street village, was selected as the meeting location. Smith was nominated by the RTPC to chair the public meeting.⁵⁵ The format of the event was to divide the evening in two: the first half would be a general meeting held in the auditorium to give speeches and updates, with the second half taking place in six different classrooms, each devoted to an RTPC “coordinating committee.”⁵⁶ With letters of support from Pierre Burton, Stephen Lewis, Charles Templeton, and from the Race Relations and Women’s Relations Committees of the Toronto Board of Education, the RTPC was in a strong position to channel the political outrage following the raids.⁵⁷ The meeting itself went as planned. Almost 1,000 people gathered at Jarvis Collegiate, including members of the media.⁵⁸ A motion from Brent Hawkes at the start of the meeting declared that anyone from the media was welcome except for the *Toronto Sun*, which vowed to publish the names of any found-ins they were able to come across.⁵⁹

⁵⁴ “Letter from John Alan Lee to the RTPC Executive and members,” CLGA, RTPC (88-011), Box: 2, File: 10, February 9, 1981.

⁵⁵ “RTPC Minutes of Special Meeting – February 8, 1981,” CLGA, The Body Politic (1983-009), Box: 3, File: Gay Community Leaflets: Bath Raids and Demos.

⁵⁶ “RTPC Organizational Chart as of February 15, 1981,” CLGA, RTPC (1986-002), Box: 1, File: Minutes, Agendas, Meetings, Public.

⁵⁷ “RTPC Minutes of Special Meeting – February 9, 1981,” CLGA, (1986-002), Box: 1, File: Minutes, Agendas, Meetings, Public.

⁵⁸ “1,000 at Meeting to Protest Raids,” *Toronto Star*, February 11, 1981: A11.

⁵⁹ “RTPC Minutes of Special Public Meeting – February 10, 1981,” CLGA, (1986-002), Box: 1, File: Minutes, Agendas, Meetings, Public.

The newly reinvigorated RTPC began to work on seven main goals: “to place unrelenting pressure on the police” to reform their approach to the gay community; to encourage all found-ins to plead “not guilty”; to coordinate gay-friendly lawyers; to raise funds for the legal defense (the February 10 meeting at Jarvis Collegiate raised \$7,000); to establish a courtroom support system so that found-ins would not be alone in court; to lobby the Federal government to change the Criminal Code with regard to bawdy-houses; and finally, to demand an independent inquiry into the raids.⁶⁰ The six classrooms at Jarvis Collegiate were full, but the largest contingent of more than 200 people remained in the auditorium. This was where the Public Action Committee (PAC) formed, and selected Tim McCaskell as chair. In order to continue to focus the political power inspired by the raids, the PAC undertook an effort to hold another protest. Bob Gallagher was selected as head marshal.

Gallagher moved to Toronto for graduate school in 1977.⁶¹ He was trained and experienced in the Philadelphia anti-war protests, and became involved in the *Body Politic* soon after he arrived in Canada. Gallagher was keen to join the reinvigorated RTPC after Operation Soap. He was integral to marshalling the February 6 protest. He assembled a marshalling crew and created booklets of important information for the marshals during the protest. They in turn photocopied information sheets that they could hand to anyone who might be arrested.⁶² They had also arranged a series of chants for the crowd, including “Toronto gays are here to stay!” and “Gays unite, gays unite, all together we will fight!”⁶³ Gallagher’s lover, Jamie Hart, worked alongside fashion designer Charlie Grimes to sew a massive banner for the protest with the words “Enough is Enough – Stop Police Violence” on the front. Due to his training, Gallagher brought crucial protest strategy to the RTPC. He believed that the role of a marshal was not to contain the crowd, but rather, to “express the mood of the people and keep them

⁶⁰ This was the RTPC policy adopted at the February 10 meeting.

⁶¹ Interview with Bob Gallagher, June 17, 2016.

⁶² Copies of this material are located in CLGA, RTPC (88-011), Box: 1, File: 22.

⁶³ “Protest chants,” CLGA, RTPC (88-011), Box: 1, File: 22, February 20, 1981.

safe.”⁶⁴ The lead marshals were trained to keep their backs to the crowd in order to facilitate the expression of anger, while the remaining marshals kept watch for homophobic spectators, overenthusiastic police officers, or those in the crowd who were going to bring danger to themselves or to the group. Gallagher, McCaskell, and the other members of the PAC set a protest for February 20.

The protest on February 20 was organized on three main principles: first, to have a larger, more organized protest against the police and their actions; second, to influence the coming provincial election and to pressure each party to include “sexual orientation” in the Ontario Human Rights Code; and third, “to provide a setting for other groups with whom we are allied to show their support.”⁶⁵ The biggest issue around organizing the protest was not the training of marshals, the creation of signs, the distribution of flyers, the creation of a banner, arranging speakers, or renting sound trucks. Instead, the most contentious issue was that of confrontations with police.

During the February 6 protest, police officers were reportedly physically and verbally abusive to demonstrators, and some removed their badges to avoid being identified. It was feared that this newly organized protest might incur violence in interactions with the police. Gary Kinsman urged the RTPC to adopt an official policy in dealing with police, namely that there be no physical confrontations and that the RTPC do everything in its power to avoid any arrests. There was also a concern with the fact that other minority groups, some of who had their own confrontations with police, could be alienated if they were marching with the RTPC and yet were placed in a “confrontation position that they are not prepared to deal with.”⁶⁶ In addition to ensuring a peaceful protest, the RTPC also reached out to potential allies. At their planning meeting, they proposed to have an equal representation of women

⁶⁴ Interview with Bob Gallagher, June 17, 2016.

⁶⁵ “RTPC Minutes of Special Meeting – February 15, 1981,” CLGA, RTPC (1986-002), Box: 1, File: Minutes, Agendas, Meetings, Public: 1.

⁶⁶ *Ibid*, 7.

and men speakers, and to try to have as broad a selection of “representatives from other minority groups” to speak.⁶⁷

The February 20 protest was more organized than that of February 6, but so too were the police. The RTPC arranged for a series of speakers that reflected the broad base of support the gay community garnered as a result of the February 5 police action. The crowd would gather at Queen’s Park to hear speeches prior to marching. The plan was to march east along College Street and then turn south on Yonge Street. The march permit, obtained by Gallagher, allowed the group to use College Street, but then required the protest to remain on the sidewalk of Yonge Street. Both Gallagher and McCaskell have remarked that Yonge Street was ‘sacrosanct’ and that, “the only thing that was allowed to close it down was the Santa Claus parade.”⁶⁸ In an act of planned defiance, the marshals at the front of protest, led by Kinsman, swung the “Enough is Enough” banner around the corner of the intersection and onto Yonge Street.⁶⁹ Gallagher and Jamie Hart designed the banner with four detached bamboo poles, with the specific purpose that it would be easily maneuverable around corners and intersections. The confrontation with the police began when the protest marched into Yonge Street.

Among the 4,000 demonstrators at the “Enough is Enough” rally were undercover police agents who acted as agent provocateurs. According to photographic evidence by the *Body Politic* and the *Toronto Clarion*, at least five undercover agents were part of the February 20 demonstration. Two of those officers were photographed holding the banner. Kinsman recalls seeing a group of men who appeared to be “drunks” make their way to the front of the protest, where they took hold of the banner and began to cut through the fabric. Later, two of these men were photographed arresting one of the demonstrators.⁷⁰ It was also reported that they “spat in people’s faces and provoked fights resulting in

⁶⁷ *Ibid*, 8.

⁶⁸ McCaskell, *Queer Progress*, 139; Interview with Bob Gallagher, June 17, 2016.

⁶⁹ Interview with Gary Kinsman, September 1, 2016.

⁷⁰ Ted Hebbes, “More Photos Expose Cops’ Dirty Tricks,” *Toronto Clarion*, March 13, 1981: 5.

the arrest of three marshals who attempted to stop the fighting.”⁷¹ Gallagher, who was at the back of the demonstration, witnessed a man tackling one of the protestors, so he moved to intervene. It was at this moment he realized the person he was pulling at was an undercover police officer. Gallagher was then arrested. He was known to the officers in charge of those policing the protest. While Gallagher was at the station being charged, one of them noticed that he had been arrested, and released him. Before Gallagher left, the Superintendent forced the officer who arrested him to apologize.⁷² In spite of arresting the lead marshal, Inspector John Getty was quoted in the *Globe and Mail* the next day stating, “the marshals (of the rally) have been good. They’ve co-operated.”⁷³ Chief Ackroyd and Police Commissioner Phil Givens acknowledged the incident, but no disciplinary action was taken.⁷⁴

The protest continued to 52 Division, where a series of passionate speeches were delivered on the theme of police accountability. The speakers represented a diverse cross-section of the city. It included Wally Majesky of the Metro Toronto Labour Council, and a group called We’re In Support of Homosexuals (WISH), a small collection of sympathetic heterosexuals, mostly women.⁷⁵ Lemona Johnson, the widow of Albert Johnson, gave a passionate speech demonstrating the intersectionality of police oppression between the queer community and the black community. Albert was killed by police in their family home in August 1979, which prompted protest from the Working Group on Police Minority Relations. Lemona declared, “the arrest of members of Toronto’s gay community is a further indication that the police force of this city is lacking in discipline and proper supervision. The police

⁷¹ “Uncovering the enemy within,” *Body Politic*, April 1981: 12.

⁷² Interview with Bob Gallagher, June 17, 2016.

⁷³ Margaret Mironowicz and Denys Horgan, “Supporters of Gay Rights Protest Against Police Raids,” *Globe and Mail*, February 21, 1981: 15.

⁷⁴ “The shadows have eyes,” *Globe and Mail*, March 19, 1981: 6; “Unwise police involvement,” *Toronto Star*, March 17, 1981: A8.

⁷⁵ “Lining up on our side,” *Body Politic*, April 1981: 10.

force in this city is being used as a political tool by politicians.”⁷⁶ The February 20 protest demonstrated the PAC’s ability to successfully mobilize the community outrage from Operation Soap.

The PAC mobilized the community into political action throughout 1981. On March 7, they joined the International Women’s Day march with members of a new group, Gays and Lesbians Against the Right Everywhere (GLARE).⁷⁷ Gary Kinsman acted as a liaison between the RTPC and GLARE, and formed the PAC’s election subcommittee. On March 11, the PAC and GLARE protested outside an all-candidates meeting in York Mills, where they confronted PC MPP Bette Stevenson regarding the raids. These two groups also attended an NDP rally to confront their lack of support for the community, and they distributed more than 200 copies of *Action*, a newsletter created by the RTPC.⁷⁸

The PAC continued their resistance against the police. On March 23, they held a press conference where Smith presented film evidence and sworn affidavits of police brutality and vandalism during the February 20 protest.⁷⁹ On April 23, they joined with other Toronto queer groups in a protest at City Hall over conspiracy charges from Operation Soap laid against Peter Maloney and other bathhouse owners.⁸⁰ The PAC was not the only group mobilizing protests during this time. CGRO, for example, organized a Gay Freedom Rally at St. Lawrence Market that included 1,200 people and notable speakers, including Hislop and Margaret Atwood. Atwood stated, “it always did make me want to throw up to see big kids beating up little kids on the school yard. And I always used to wonder why they did that. And I think the answer is that they could.”⁸¹

⁷⁶ *Track II – Enough is Enough*.

⁷⁷ Susan Pigg, “Women celebrate victories and march for many more,” *Toronto Star*, March 8, 1981: A3;

⁷⁸ “Coordinating Committee Minutes,” CLGA, RTPC (1986-002), Box: 1, File: Minutes, March 8, 1981: 1; “Coordinating Committee Minutes,” CLGA, RTPC (1986-002), Box: 1, File: Minutes, March 15, 1981:1; “Action!” CLGA, *The Body Politic* (1983-009), Box: 3, File: Gay Community Leaflets, March 1981.

⁷⁹ “Gay Rights Group Delivers Affidavits on Police Conduct,” *Globe and Mail*, March 26, 1981: 4.

⁸⁰ “Police mounting vendetta, homosexual spokesmen say,” *Globe and Mail*, April 24, 1981: 4; “Action!” CLGA, RTPC (1986-002), Box: 1, File: Posters, May 1981.

⁸¹ *Track II – Enough is Enough*.

The PAC continued the efforts of the pre-Operation Soap RTPC in branching out to other community groups. In addition to joining the International Women's Day Committee, the PAC joined anti-racist efforts. In May, they worked with the Riverdale Action Commission Against Racism (RACAR) to confront a group of members from the Ku Klux Klan (KKK) who moved into a house in the neighborhood.⁸² They aligned with a group called the Citizens Independent Review of Police Actions (CIRPA). For example, CIRPA aided in marshalling some of the RTPC protests. At the summer of 1981 RTPC retreat, the PAC decided to promote CIRPA's various activities.⁸³ CIRPA was an umbrella organization consisting of several activists and groups, including GLARE, the Albert Johnson Defense Committee Against Police Brutality, the National Black Coalition, as well as Toronto civic activist Jack Layton. The *Toronto Sun* labelled CIRPA, "vigilantes."⁸⁴ Their activities were aligned with RTPC objectives, particularly around the creation of a citizen police complaint unit. This umbrella of groups (PAC, CIRPA, GLARE) were formed during a time of constant confrontation between activists and the police.

June 1981 was a tumultuous month for the RTPC. On May 30, 40 Edmonton police officers raided the Pisces Health Spa where 62 men were charged under the bawdy house law.⁸⁵ An affiliation organization, RTPC Calgary, was formed to raise funds for the legal defense of those charged.⁸⁶ On June 12, the verdict in the trial for the 1978 Barracks raid concluded, with owners George Hislop, Jerry Levy, and Rick Stenhouse being acquitted, but workers Andy Fabo and Paul Gaudet being convicted of keeping a common bawdy house. The PAC organized a protest of 2,000 people at 10pm that night to

⁸² McCaskell, 152; "Your Rights Are Under Attack – Flyer for Public Meeting," CLGA, RTPC (88-011), Box: 2, File: 7, May 7, 1981; "Riverdale Community Festival Against the Klan – Smash the Klan! Flyer," CLGA, RTPC (88-011), Box: 2, File: 7, May 31, 1981.

⁸³ "Minutes of RTPC Policy Retreat," CLGA, RTPC (88-011), Box: 2, File: 13, August 22, 1981: 16.

⁸⁴ "Vigilantes," *Toronto Sun*, September 21, 1981: 10.

⁸⁵ Gerald Hannon, "Edmonton: Bath raids move west," *The Body Politic*, July 1981: 14.

⁸⁶ "RTPC Calgary – Anatomy of the Bawdy-house Laws," CLGA, RTPC (1986-002), Box: 1, File: Briefs, n.d.

demonstrate against the convictions and the Edmonton raids.⁸⁷ On June 16, 23 Metropolitan Toronto Police officers raided two more bathhouses: the International Steam Baths and the Back Door Gym, resulting in 21 arrests.⁸⁸ The PAC organized a marshalled protest for June 20, starting at Yonge and Wellesley, but in an effort to confuse the police, they opted to march north to Bloor Street instead of south.⁸⁹ In spite of efforts by the marshals, this protest turned into chaos. A police car drove into *Body Politic* member Ken Popert, who was thrown over the hood. Tim McCaskell was hit in the head with a police billy club while he was locked in arms with fellow marshals.⁹⁰

Due to these events, the RTPC began adopting a position in favour of an official inquiry into the bathhouse raids and the police. PAC head marshal Bob Gallagher and John Bodis presented a brief to the Metropolitan Toronto Police Commission after the June 16 raids. In addition to including an updated version of the April 1979 RTPC brief “Our Police Force Too!”, Gallagher and Bodis argued that the refusal to conduct an inquiry “has been interpreted by the gay community as a sanction to the police actions.”⁹¹ At an RTPC press conference on June 25, Dan Healey stated that the RTPC:

...demand that Mayor Eggleton immediately fulfill his promise and the promise of Toronto City Council to appoint someone to head the inquiry. It is important to state that the Right to Privacy Committee has an officially adopted policy that our concern with police mismanagement is not directed at the man-on-the-beat, nor has it ever been. We believe, however, that there is a faction within the police department that is vehemently homophobic. More importantly, our concern is that Police Chief Jack Ackroyd is either a part of that homophobic faction himself or is unable or unwilling to control it.⁹²

⁸⁷ “Flyer – Demonstrate Against the Bawdy House Laws, Yonge and Wellesley,” CLGA, The Body Politic (1983-009), Box: 3, File: Gay Community Leaflets, June 12, 1981; Gerald Hannon, “Judge finds group sex indecent: two found guilty in Barracks case,” *The Body Politic*, July 1981: 9.

⁸⁸ “Metropolitan Toronto Police Press Release,” CLGA, The Body Politic, Box: 3, File: Bath Raids – June 1981, June 16, 1981; Ian Austen, “21 arrested in swoop on 2 bathhouses,” *Globe and Mail*, June 17, 1981: 5.

⁸⁹ Interview with Bob Gallagher, June 17, 2016; “RTPC Flyer – Blow the Whistle on the Cops,” CLGA, The Body Politic (1983-009), Box: 3, File: Gay Community Leaflets, June 20, 1981.

⁹⁰ McCaskell, *Queer Progress*, 149.

⁹¹ “RTPC Brief to Metropolitan Toronto Board of Commissioners of Police,” CLGA, RTPC (1986-002), Box: 1, File: Briefs.

⁹² “RTPC Media Conference Statement on Police Brutality,” CLGA, The Body Politic (1983-009), Box: 3, File: Police Statements, June 25, 1981: 4.

While some in the community labelled this a “betrayal,” many in the RTPC were skeptical of what could be accomplished by such a process.⁹³ As a result, this was the first indication of RTPC support for that initiative. Several groups had been advocating for an inquiry since the days following Operation Soap.

Legitimizing the Community: The Bruner Report

The first call for an independent inquiry did not come from a member of the gay community but instead came from Alan Borovoy of the Canadian Civil Liberties Association (CCLA). In a letter to Attorney General Roy McMurtry on February 9, Borovoy detailed six major issues that the CCLA had with the raids, with a seventh point of demanding a full inquiry.⁹⁴ The CCLA was concerned with the amount of damage caused by police to the bathhouse premises, which was estimated between \$25,000 and \$50,000. McMurtry’s reply denied extensive damage, in spite of clear photographic and video evidence. He replied, “at one of the four premises in question one police officer took a hammer into the place with him but it was not used. At another establishment one crowbar was taken and was used to open three lockers. This is the total evidence available with respect to crowbars and hammers.”⁹⁵ Another issue raised by Borovoy was the number of police officers used in the raid. McMurtry defended the police by stating that “one could quickly criticize the police if they failed to bring sufficient personnel [in conducting the raids].”⁹⁶ In response to Borovoy’s assertion that “the impugned activity is confined to consenting adults in a relatively private setting,” McMurtry launched a detailed defence of the Criminal Code’s bawdy house law, showing that the baths were not private because there were more than two people involved in sexual activities.⁹⁷

⁹³ Ed Jackson, “Mayor drags feet on cop/gay study,” *The Body Politic*, July 1981: 9-10.

⁹⁴ “Letter from Alan Borovoy to Roy McMurtry,” CLGA, Arnold Bruner (98-050), Box: 1, File: 8, February 9, 1981.

⁹⁵ “Letter from Roy McMurtry to Alan Borovoy,” CLGA, *The Body Politic* (1983-009), Box: 3, File: Police Statements Attorney General Statements, February 12, 1981: 2.

⁹⁶ *Ibid*, 3.

⁹⁷ *Ibid*, 4.

Finally, Borovoy concluded his call for an independent inquiry by arguing that the number of found-ins charged, and the behaviour of police during the raid, led large sectors of the public to believe “that this entire episode is nothing more than an exercise in discrimination and harassment.”⁹⁸ McMurtry blamed this perspective squarely on the media for causing a panic over the raids. His response to Borovoy also tersely concluded that he would not call for a public inquiry solely on the basis that “the charges are currently before the courts.”⁹⁹ This became McMurtry’s mantra when repeated requests for an inquiry were demanded over the weeks to come. Echoing this sentiment was Mayor Art Eggleton, who on February 24 declared that “whether this was the result of excessive force will emerge at the court proceedings.” He continued by stating that he did “not believe that the raids were ordered to harass or persecute the gay community,” and that “an independent inquiry into police actions, at this time, creates problems rather than solves them.”¹⁰⁰

At a press conference on February 10, several aldermen (including Gordon Cressy and Pat Sheppard), black community leaders (including Wilson Head), authors (including Margaret Atwood and June Callwood), and Alan Borovoy of the CCLA called for “speedy explanations by police authorities.”¹⁰¹ The same coalition vowed to attend the Police Board meeting on February 12, one week after Operation Soap. At the meeting, several community members spoke, including Brent Hawkes and George Hislop, while more than 50 protestors were outside in frigid temperatures.¹⁰² Hawkes proclaimed, “because of the brutal and Nazi-like action by some of the police force last Thursday and Friday, I am no longer able

⁹⁸ Ibid, 5.

⁹⁹ Ibid, 7.

¹⁰⁰ “Press release by Art Eggleton, February 24, 1981,” CLGA, The Body Politic (1983-009), Box: 3, File: Bath Raids: City Hall Report.

¹⁰¹ “Text of press conference, February 10, 1981,” CLGA, The Body Politic (1983-009), Box: 3, File: Bath Raids: City Hall Report.

¹⁰² See photo: CLGA, RTPC (88-011), Box: 1, File: 23, February 12, 1981.

to pursue the moderate approach. Where are your priorities? The people of Toronto need protection, not harassment.”¹⁰³ Hislop delivered an impassioned address:

The night of Thursday February the 5th will go down in history in this city as a night of infamy. It is tragic that so much work has been destroyed by so few people. I want to ask the Commission: have any of you gone down and seen what happened down there? No. Where is Roy McMurtry? No one can find him. The Commissioner Paul Godfrey says, ‘it is not a matter of brutality, it is law.’ Godfrey is trying to turn it all around. We are not objecting to anyone enforcing the law, we are objecting to the way the law is being enforced.¹⁰⁴

According to a front-page story in the *Globe and Mail*, 24 “emotional speeches” were made at the Police Board hearing, many of whom demanded that the Police Commissioners ask McMurtry to call for an independent inquiry. Board Chair Philip Givens was jeered when he denied the request, stating that the “police had used only the necessary force under the circumstances in carrying out the raids.”¹⁰⁵ It was further revealed that all five police commissioners “had decided before the meeting not to support a public inquiry.”¹⁰⁶ This was unacceptable to the queer community and their allies.¹⁰⁷

Brent Hawkes announced on February 15 that he was going on a hunger strike until there was a formal inquiry. Hawkes declared that he could “never again stand idly by when my gay brothers or gay sisters are brutally beaten,” and that “the police should get out of our bedrooms and back into the business of fighting real crime.”¹⁰⁸ He concluded his remarks by appealing to the community’s allies: “minorities all over the city are furious not only because of this injustice done to gay people but also because they know they could be next.”¹⁰⁹ Hawkes recalls that he “felt called, led, by God, to do a hunger strike. Hunger strikes are a very valid political tool, they are a very dangerous tool, because it’s

¹⁰³ *Track II – Enough is Enough*.

¹⁰⁴ *Ibid*.

¹⁰⁵ Ian Mulgrew, “Inquiry on bathhouse raid rejected amid accusations,” *Globe and Mail*, February 13, 1981: 1.

¹⁰⁶ *Ibid*, 2.

¹⁰⁷ See for example, Rev. Clifford Elliot, “Bath house raids merit inquiry,” *Toronto Star*, March 14, 1981.

¹⁰⁸ “Brent Hawkes hunger strike info sheet,” CLGA, *The Body Politic*, (1983-009), Box: 3, File: Gay Community Leaflets: Bath Raids and Demos, February 15, 1981.

¹⁰⁹ *Ibid*.

hard to get out of them when you don't win what you want and save face. This is what we saw with the Chief [Theresa Spence of Idle No More]."¹¹⁰ So in consultation with his loved ones, his congregation, and with his belief in the Holy Spirit, Hawkes began his hunger strike. During the height of his hunger strike, Hawkes had his first date with his long term partner John. Their first date was to see a movie, and they joke that John enjoyed the "cheap date" because Hawkes was unable to consume popcorn or other snacks.¹¹¹

Two gay-friendly members of City Council, Pat Sheppard and David White, drafted a report for City Council echoing Hawkes' call for an inquiry. The two aldermen stated that "a religious leader has gone on a hunger strike now in its eleventh day. His request is the same as that of the Canadian Civil Liberties Association, religious and community leaders and many members of City Council: for an independent inquiry into recent police actions in the gay community."¹¹² The two aldermen placed the blame with McMurtry and the Metropolitan Board of Commissioners of Police. They characterized the Commission as "a total write-off" when it came to reform. They also argued that had McMurtry "acted some time ago on standing requests for reforms, we would not be in this present situation."¹¹³ Many of those "standing requests" came in the form of other police inquiries.

The 1970s was a decade of contestation and evaluation of police agencies, in the City of Toronto, the Province of Ontario, and nation-wide. There were several commissions of inquiry established by all three levels of government throughout much of this time period. The nature of these inquiries dealt with police accountability, complaints, police brutality, and the oft-cited discrimination within police forces to racial minorities and women. For example, on May 12, 1975, lawyer Arthur

¹¹⁰ Interview with Brent Hawkes, June 18, 2013.

¹¹¹ Ibid.

¹¹² Pat Sheppard and David White, "Report on Police Raids on Gay Steambaths submitted to Toronto City Council," CLGA, The Body Politic, (1983-009), Box: 3, File: City Hall Report, February 26, 1981: 3.

¹¹³ Ibid, 18.

Maloney was hired by the Police Commission to conduct an inquiry into the Metropolitan Toronto Police complaint procedure. The goal of this report was to evaluate the effectiveness of the complaint procedure in place through the early 1970s. In his report, Maloney (no relation to Peter Maloney of the RTPC) concluded, “obviously, one cannot help but be struck by the relatively few instances in which meaningful disciplinary action resulted from a finding of culpability on the part of an officer complained against.”¹¹⁴ Maloney urged a complete overhaul of the complaints procedure, including the appointment of a Judge to be the commissioner of a complaints bureau, as well as the creation of a three person tribunal (a judge, a citizen, and a police officer) to decide on the legitimacy of complaints as well as any disciplinary action to be taken against a police officer.¹¹⁵ In full support of this position, the Morand Commission (otherwise known as the Royal Commission into Metropolitan Toronto Police Practices) was launched by the Government of Ontario and was published on June 30, 1976. Justice Morand concluded that a citizen complaint procedure was necessary, with “an independent investigation and review of police conduct and independent tribunal for the hearing of complaints.”¹¹⁶

In the case of the Carter Report, Gerald Emmett Cardinal Carter was appointed by the City of Toronto in 1979 to “improve damaged relations between the Metro Toronto Police Force and Metro blacks.”¹¹⁷ It is important to note that Carter considered the issue of the gay community, but concluded that “the self-avowed homosexual community” did not “constitute a community which may legitimately demand special consideration.”¹¹⁸ Carter acknowledged his personal and religious views, and conceded that instead of policing sex, law enforcement “ought to have many more urgent preoccupations.”¹¹⁹ As

¹¹⁴ Arthur Maloney, “The Metropolitan Toronto Review of Citizen-Police Complaint Procedure,” Toronto: City of Toronto, May 12, 1975: 61.

¹¹⁵ Ibid, 213 and 219.

¹¹⁶ Donald R. Morand, “The Royal Commission into Metropolitan Toronto Police Practices,” Government of Ontario, June 30, 1976: 267.

¹¹⁷ Helen Worthington, “Carter report: Lots of praise but less action,” *Toronto Star*, December 15, 1979: B6.

¹¹⁸ Gerald Emmett Cardinal Carter, “Report to the Civic Authorities of Metropolitan Toronto and its Citizens,” CLGA, Arnold Bruner (98-050), Box: 1, File: 11, October 29, 1979: 8.

¹¹⁹ Ibid.

in the case of the Maloney and Morand report, the Carter report was criticized by Wilson Head and Dudley Laws for a lack of sincerity in implementing its various recommendations (including a recommendation to democratize the Police Commission).¹²⁰ On March 1, 1981, after Operation Soap, Carter hosted 250 police officers at St. Michael's Cathedral and made a joke with "oblique references to homosexuals and the recent police raids on gay bathhouses," causing laughter among those in attendance.¹²¹ Carter's report was not sufficient in dealing with the strained relationship between the police and the Toronto queer community, particularly after the bath raids.

Although Mayor Art Eggleton and Attorney General Roy McMurtry refused to call for an inquiry into Operation Soap, the Toronto City Council disagreed. When the White-Sheppard report was tabled in council on February 26, the aldermen held a vote as to whether Council should make a request to the Ontario Government for an inquiry: the aldermen voted in the affirmative, 11-9.¹²² On the same day, Alderman Gordon Chong, who defeated Hislop in the 1980 municipal election, demanded that the provincial government establish a "Public Complaints Commissioner to investigate all complaints against the police."¹²³ The loss of support on council, mounting public pressure to find answers to police actions in the raid, and Brent Hawkes' hunger strike proved too much for Eggleton. On March 12, the Mayor advised Council that he approached Daniel Hill, who was a member of the Mayor's Committee on Community and Race Relations, to "look into the disagreement and difficulties surrounding relations between the Police and the gay community."¹²⁴ Daniel Hill was a renowned and respected civil rights leader in Toronto and across the country and was the preferred choice. However, he was not available

¹²⁰ Yves Lavigne, "Godfrey vows quick move on 2 of Carter's proposals," *Globe and Mail*, October 30, 1979: 1.

¹²¹ Donald W. McLeod, *Lesbian and Gay Liberation and Canada: A Selected Annotated Chronology, 1976-1981*, Toronto: Homewood Books, 2014: 643; "As the Cardinal said," *Globe and Mail*, March 3, 1981: 6; "Cardinal 'regrets' his joke," *Toronto Star*, March 4, 1981: A22.

¹²² Denys Horgan, "Toronto Council wants probe of police raids on bathhouses," *Globe and Mail*, February 27, 1981.

¹²³ "Gordon Chong Press Release," CLGA, The Body Politic (1983-009), Box: 3, File: City Hall Report, February 25, 1981.

¹²⁴ "Notice from the City Clerk," CLGA, RTPC (88-011) Box: 1, File: 26, March 16, 1981.

to conduct the study. Although he seemed quite concerned with what took place during the raids, Hill believed it a “very serious matter,” and felt he required a legal assistant as well as a research assistant.¹²⁵ After wavering, Hill revealed he could not conduct the study and recommended that Arnold Bruner, a law student and journalist, conduct the report. Arnold Bruner did not have a mandate for “investigating police raids on bathhouses,”¹²⁶ but rather, would be looking into the stressed relationship between Police and the community. So on July 13, Bruner was commissioned by City Council to conduct the inquiry.

Other scholars have written about commissions of inquiry, their relative merit, and their place in social movements and in historical analysis. Adam Ashforth argues that commissions of inquiry exist for reasons “which go beyond their expressed purposes.”¹²⁷ Policy recommendations stemming from commissions of inquiry are rarely implemented. In spite of that, such commissions “produce a rational and scientific administrative discourse out of the raw materials of political struggle and debate.” For Ashforth, the policy outcome is not the sole reason to evaluate commissions of inquiry. In addition, we should examine the ways in which public inquiries are “connected with process of legitimation within States.”¹²⁸ Arnold Bruner examined the ‘raw materials’ of a ‘political struggle’ between the police and the gay community. The main issue he was investigating dealt with the legitimacy of the gay community to be recognized as a minority community, and whether the police required a different approach to law enforcement. The Bruner study also follows what Ashforth and others view as the way in which commissions of inquiry serve as a method whereby the “intelligentsia transmit forms of knowledge into political practices.”¹²⁹ They serve as a means by which the modern state produces “a rational and

¹²⁵ “Notes of phone conversation,” CLGA, The Body Politic (1983-009), Box: 3, File: Bath Raids Update, April 9, 1981.

¹²⁶ “Police-Homosexual study OK’d,” *Toronto Star*, July 14, 1981: A12.

¹²⁷ Adam Ashforth, “Reckoning Schemes of Legitimation: On Commissions of Inquiry as Power/Knowledge Forms,” *Journal of Historical Sociology*, Vol. 3, No. 1 (March 1990): 1.

¹²⁸ *Ibid*, 3.

¹²⁹ *Ibid*, 2.

scientific administrative discourse” as a means of legitimizing itself by claiming to pursue an “objective Common Good.”¹³⁰ In other words, commissions of inquiry are designed to legitimize the state by bringing scientific and rational conclusions to a contentious political issue. Those that conduct the inquiry, such as Arnold Bruner, characterize the subject material “in a language observing the rules of ‘objective’ knowledge.” They also “must reconcile knowledge of particular group values and ideologies ... with knowledge of material objectives and practical possibilities.”¹³¹ Bruner was tasked, by the state, to bring an objective viewpoint on the strained relationship between the gay community and the police.

Marcel Martel and Martin Pâquet, in their study of language politics in Canada and Québec, examine how the state utilized commissions of inquiry to “channel the expression of public opinion” and for the “accumulation of knowledge prior to the making of political decisions.”¹³² Arnold Bruner’s commissioned study laid out the facts of the strained relationship (including the history of gay people and police relations in Toronto), and conducted the study on social-scientific terms. He attempted to remain objective, even if the political pressure surrounding these issues seemed insurmountable. Unlike the language debate studied by Martel and Pâquet, this inquiry was not meant to ‘channel’ the opinions and attitudes of those affected by the raids. Instead, the basis for his inquiry was to establish whether the gay community was legitimate (and thus deserving of police outreach), and to determine what course of action needed to be taken in order to repair the damaged relationship. In the end, the Bruner study officially recognized the gay community as a legitimate community within the City of Toronto, and it determined that this group was deserving of rights and protections.

Bruner’s study lasted 60 days. He spent most of July gathering research and contacting individuals and groups for input. In August, he consulted with many groups, including attending a

¹³⁰ Ibid, 3-4.

¹³¹ Ibid, 6.

¹³² Marcel Martel and Martin Pâquet, *Speaking Up: A History of Language and Politics in Canada and Quebec*, Toronto: Between the Lines, 2012: 118.

community meeting organized by the RTPC. The final report was published on September 24. He concluded with 16 recommendations for reform, most notably being a declaration that the queer community ought to be treated as a legitimate minority community that deserved to be recognized as such in law enforcement. He presented his research by first demonstrating reasons why the queer community was considered legitimate. He then examined the law and the Metropolitan Toronto Police. Finally, he explored the recent history of police relations with queer people in Toronto, Vancouver and San Francisco, offering a basis of comparison to rationally support his arguments. Although few of the study's recommendations were implemented, the Bruner inquiry serves as a useful examination for how the community was viewed in the evidence-gathering process of a commission of inquiry. Through that lens, the community was somewhat vindicated, and the police were rebuked.

One of Bruner's subheadings was entitled, "There is a gay community."¹³³ In defining this, he consulted several sociologists from universities around Toronto, including Dr. Daniel Hill. The conclusion of these consultations was essentially that a community is a group of people with common interests and goals, and as Hill stated, "shared characteristics and interlocking institutions."¹³⁴ For Bruner, gay bathhouses were important "social, sex oriented institutions," and the raids on them were not only seen as an attack on bathhouses but also an attack on an entire community.¹³⁵ Bruner's discussion of the gay community included a frank discussion of washroom and park sex, through which he remained morally dispassionate and maintained an impartial tone.

One problem present for any liberal social scientific inquiry into the queer community was that this community could not be counted. This type of information was not collected in the census, and there was no empirical data to base a guess as to the number of gays and lesbians within the city.

¹³³ Arnold Bruner, "Out of the Closet: Study of Relations Between the Homosexual Community and the Police," CLGA, Bruner Study (m1994-048a), September 24, 1981:32.

¹³⁴ *Ibid*, 33.

¹³⁵ *Ibid*, 56-57.

Bruner deemed it important to state that “there is ample evidence of a sizeable gay community representing a significant portion of the general population.”¹³⁶ In Bruce Curtis’ study of census making in the 19th century, he argued that “struggles over census making are to be found with respect to the legitimacy of representations of population as such, and also with respect to the legitimacy of the policy measures that result from those representations.”¹³⁷ In the late 19th century, the census was important in terms of governmentality: in order to govern a population, it must first be ‘scientifically discovered.’¹³⁸ The gay community was a difficult community to measure in 1981. Many gays and lesbians lived life in the closet, and this meant, according to Bruner, that “no accurate count is possible.”¹³⁹ Instead, Bruner used Alfred Kinsey’s 1948 report on homosexuality, in addition to the census of Toronto, to estimate that there were 125,000 “gay men,” and 63,000 “gay females” living in Toronto in 1981.¹⁴⁰ An April 1981 article in the *Body Politic* similarly ponders “the construction of a gay census” by applying the statistical findings in the Kinsey study to the 1976 Canadian census.¹⁴¹ Identifying and rationalizing the gay population was important to Bruner’s analysis legitimizing the gay community.

Bruner examined the law and the legal system and concluded that “the sexual offences sections of our Criminal Code [such as buggery, indecency, the bawdy house law] are relics of a past era that are often vague in their meaning and open to various interpretations.”¹⁴² He noted that in Vancouver, where there was also a sizeable queer population, the police and members of the community struck a dialogue committee that met once per month. The purpose of this committee was to avoid the strained

¹³⁶ Ibid, 51.

¹³⁷ Bruce Curtis, *The Politics of Population: State Formation, Statistics, and the Census of Canada, 1840-1875*, Toronto: University of Toronto Press, 2001: 28.

¹³⁸ Ibid, 24.

¹³⁹ Bruner, “Out of the Closet,” 49.

¹⁴⁰ Ibid, 50.

¹⁴¹ Ken Popert, “Calculating homosexuals,” *Body Politic*, April 1981: 20.

¹⁴² Bruner, “Out of the Closet,” 18.

relationship seen in Toronto, and from Bruner's perspective it was working: new police were given strict instructions on respecting members of the gay community during regular patrols and the Vancouver Police made it "a practice to turn out in force at every major gay event."¹⁴³ Inspired by his experience in Vancouver, Bruner's first recommendation was "the establishment of a police/gay dialogue committee."¹⁴⁴

Bruner's investigation placed a spotlight on the Metropolitan Toronto Police. He studied the police, including its organizational structure, budget, hierarchy, accountability, recruitment, training, and relationship with various minority communities. He noted that close to 40% of the police had not completed a high school education, and fewer than 3% had a university degree. Bruner constructed this as a problem, and used these facts to recommend increased education and training.¹⁴⁵ Some of these educational gaps were blamed on institutional inadequacies, but he also revealed a cultural approach to discipline and training. There were "two schools of thought within the force on the value of academic education in police work." In one of his interviews with police brass, he was told "the best policemen are those who enter the force with less education and upgrade their skills within the force."¹⁴⁶ Bruner was intent on analyzing both the institutional structures within the police, as well as the various cultural forces within and among officers that determine both behaviour and enforcement.

Bruner was unreserved in his analysis of police attitudes toward the queer community. In his interview with a police officer, Bruner reported some of the comments made by Police Constable Jones, a pseudonym. The attitudes reported by Jones are consistent with those of the undercover police officer who raided the Barracks, as explored in Chapter 1. Masculinity was an important attribute for most police officers during this time. Jones told Bruner: "the picture of a policeman (self-image) is a

¹⁴³ Ibid, 142.

¹⁴⁴ Ibid, 159.

¹⁴⁵ Ibid, 88 and 178.

¹⁴⁶ Ibid, 87.

verile [*sic*] type of individual – masculine and strong. I don't think gays are presented in that light."¹⁴⁷ Jones continued, "acts of homosexuality seem very unnatural to me." There was an atmosphere of 'verbal horseplay' that often included racist and homophobic epithets.¹⁴⁸ The homophobic attitude within the police force was perhaps best articulated by Paul Walter, the President of the Metropolitan Toronto Police Association. Walter was initially reluctant to be interviewed by Bruner.¹⁴⁹ He responded to Bruner's interview requests by stating that to give "a written overview of the relationship between the police and the militant homosexual community at this time would encompass many pages of opinion and reflection."¹⁵⁰ In spite of his hesitation, Walter met with Bruner on September 4. In the Bruner study, Walter's statements were summarized:

the majority of members [of the Police Association] were strongly opposed to the hiring of homosexual policemen. He gave as reasons that gay policemen were prone to engage in overt sex acts with each other in inappropriate places, that they could not be trusted if placed on duty together but might slip away to have sex, that they would attempt to seduce heterosexual policemen – particularly young ones – and could not be trusted with duty that involved children, that as homosexuals become older their sexual appetite turns increasingly to young boys.¹⁵¹

To clarify, Walter told the *Globe and Mail* after the Bruner study was made public that his statements were intended as a joke: "such references during our conversation were clearly jocular and made in a light-hearted vein."¹⁵²

Of his interview with Walter, Bruner said that "it was a good exposition of what the majority of police below the rank of staff sergeant feel about homosexuals"; this included Walter's assertion that the police do not view the gay community as a legitimate minority.¹⁵³ In an interview with the *Globe*

¹⁴⁷ Ibid, 91.

¹⁴⁸ Ibid, 92-93.

¹⁴⁹ "Letter from Arnold Bruner to Paul Walter," CLGA, Arnold Bruner (98-050), Box: 1, File: 16, August 24, 1981.

¹⁵⁰ "Letter from Paul Walter to Arnold Bruner," CLGA, Arnold Bruner (98-050), Box: 1, File: 16, August 28, 1981.

¹⁵¹ Bruner, "Out of the Closet," 96.

¹⁵² Ross Laver, "Remarks on gays intended as joke, police leader says," *Globe and Mail*, October 7, 1981: 5.

¹⁵³ Ed Jackson, "Bruner report must deal with cops who say gays are not a minority," *Body Politic*, October 1981: 13.

and Mail prior to his meeting with Bruner, Walter stated that “the majority of members of the Metro Toronto Police Association have grave concerns about recognizing homosexuals as a legitimate minority,” and would not be willing to consider the idea until there has been an “indication from the George Hislops and the Peter Maloneys that homosexual militancy will come to an end.”¹⁵⁴ In spite of this attitude, Bruner explicitly concluded that Walter’s attitudes “were based on stereotyping and not borne out by fact or experience.”¹⁵⁵

The recommendation made by Bruner that had the most impact on members of the queer community was his second recommendation: “that the Chief of Police clarify to all senior officers, supervisors, and constables that the gay community constitutes a legitimate minority within the community.”¹⁵⁶ On November 19, City Council requested that Police Chief Jack Ackroyd respond to this recommendation in the Bruner study. His response came on January 18, 1982, where he said:

all of the people in the Metropolitan Toronto Community, including the homosexual segment of the community (gay/lesbian), are entitled to the same rights, respect, service and protection as all citizens. Being homosexual is not a reason to deny anyone the right to be recognized as a legitimate member of the community.¹⁵⁷

This carefully crafted response was admonished in the *Body Politic* for refusing to recognize the community as a legitimate minority. It nonetheless was the first time a police official specifically stated that queers were deserving of respect and protection from the police.¹⁵⁸ Bruner’s first recommendation, the creation of a gay-police liaison committee, was the most controversial among queer activists.

¹⁵⁴ Alden Baker, “Gays no minority group, police association says,” *Globe and Mail*, August 29, 1981: 5.

¹⁵⁵ Bruner, 96.

¹⁵⁶ *Ibid*, 160.

¹⁵⁷ “Statement by Jack Ackroyd,” CLGA, RTPC (88-011), Box: 1, File: 10, January 18, 1982.

¹⁵⁸ Chris Bearchell, “The Cops: Pressure Still On,” *Body Politic*, March 1982: 11.

The RTPC was generally hesitant and hostile to the Bruner study throughout the entire process. First, there was the problem of finding a suitable candidate to lead the inquiry. Daniel Hill would have been preferred, but in his absence the decision to go with the relatively obscure Bruner (a legal journalist) was met with criticism by members of the RTPC. Smith, McCaskell, Gallagher, and Bearchell were anticipating that his ultimate conclusion would be the establishment of a dialogue committee with police. Gallagher summarized his critique of this approach:

I'm sure he's going to say we have a 'communication gap.' Why else would he have gone to San Francisco for a week and had his itinerary planned by a liaison officer of the San Francisco police force? But when Toronto police are calling gays 'faggots' in the streets and holding massive raids, that's not a communications gap, that's a serious structural problem within the police force.¹⁵⁹

In the RTPC brief to Bruner, the group explicitly stated "that the simple appointment of a gay-police liaison officer at this time without the necessary changes in police policies and procedures would be inappropriate."¹⁶⁰ McCaskell has acknowledged that the Bruner report was a "surprise" to the community in many ways.¹⁶¹ However, he also recalled the backlash over Bruner's recommendation "that leaders of the gay community organizations urge upon the gay community the value of a moderate stance toward the police, law officials and government in keeping with an atmosphere of dialogue."¹⁶² Bearchell retorted, "We've already taken a moderate stance toward the police."¹⁶³ Overall, of the sixteen recommendations, most were consistent with the goals of the RTPC. For example, number three was "that the Chief of police issue a new directive on the use of abusive language."¹⁶⁴ There were also recommendations aimed at police training, educational requirements in recruitment, and reviews on the uneven enforcement of law.¹⁶⁵ None of these recommendations

¹⁵⁹ "Gays criticize Bruner, Inquiry inches on," *Toronto Clarion*, September 18, 1981: 3.

¹⁶⁰ "RTPC Brief to the Bruner Study," CLGA, Arnold Bruner (98-050), Box: 3, File: RTPC,

¹⁶¹ McCaskell, *Queer Progress*, 153.

¹⁶² Bruner, "Out of the Closet," 177.

¹⁶³ McCaskell, *Queer Progress*, 154.

¹⁶⁴ Bruner, "Out of the Closet," 176.

¹⁶⁵ *Ibid*, 176-178.

represented significant institutional change. George Smith urged the RTPC to direct its efforts toward changing the Criminal Code and reorienting the meaning of privacy.

Lesbian Intersectionality and the Focus on Criminal Code Reform

In the wake of the Bruner report there was an emphasis on developing a liaison committee, while many of the report's other suggestions were delayed or ignored. According to McCaskell, "the RTPC steering committee was opposed. A liaison suggested the problem was a lack of communication between two parties, rather than a state-funded, quasi-military organization using powers under the Criminal Code to systematically attack us."¹⁶⁶ Prior to the bath raids, many of the more radical queer activists viewed the bathhouses with disdain. For one, the baths were viewed as a space for those married or in the closet. For some, this meant these men were not "properly liberated."¹⁶⁷ Second, many activists shared a leftist perspective and were dismayed at the proliferation of bathhouses and bars that were designed for profit.¹⁶⁸ McCaskell and other critical queer intellectuals had a change of heart in 1981 and extended the liberal notion of "right to privacy" to take a new meaning of community institutions and erotic spaces.¹⁶⁹ Ken Popert argued that these businesses were also "shared social spaces" and helped foster gay sexual consciousness.¹⁷⁰ Smith extended this argument to mean that the police were using the bawdy house law in the Criminal Code to attack these important sexual spaces.

Smith's shift toward Criminal Code reform was reflected in the queer press and in the legal strategy. This was most expressly present in an article entitled, "Bawdy house laws: the state's key to the bedroom door." The article opened by stating, "Most people think Pierre Trudeau's famous 1969 Criminal Code amendments had the effect of decriminalizing homosexuality. They did not."¹⁷¹ RTPC

¹⁶⁶ McCaskell, *Queer Progress*, 157.

¹⁶⁷ Interview with Tim McCaskell, September 18, 2012.

¹⁶⁸ McCaskell, *Queer Progress*, 160.

¹⁶⁹ *Ibid*, 161.

¹⁷⁰ Ken Popert, "Public Sexuality and Social Space," *The Body Politic*, July 1982: 29.

¹⁷¹ "Bawdy house laws: the state's key to the bedroom door," *The Body Politic*, April 1981: 13.

lawyer Dianne Martin elaborated, “Trudeau’s famous liberation of the laws against homosexual sex is almost meaningless. Canada’s bawdy house laws ... restrict the rights of consenting adults to have sex in private. They do much, much more than control brothels.”¹⁷² In April 1981, Smith and the RTPC saw an opportunity to implement their desired Criminal Code changes by lobbying the Standing Committee on Justice and Legal Affairs on provisions relating to group sex contained in Bill C-53.¹⁷³ Maloney, who returned to work with the RTPC after Operation Soap, suggested that pressure for further reform be placed “on high-ranking cabinet ministers.”¹⁷⁴

The RTPC shift to the Criminal Code meant lesbian issues were essentially ignored. This occurred despite several attempts by various activists in the RTPC to foster deeper intersectional ties to lesbian issues. For example, on June 25, 1981 at the 519 community centre Kinsman and McCaskell joined with lesbian activist Amy Gottlieb for an event entitled, “Strange Bedfellows: Lesbians, Gays, and the Left.” The flyer for this event stated, “the recent attacks on lesbians and gays in Toronto have resulted in growing unity between lesbians, gays, the women’s movement and the left.”¹⁷⁵ On May 9, a group of 75 lesbians met for brunch at the 519 community centre, and decided that they would actively create social spaces for lesbians to discuss lesbian issues. This was initially a committee of GLARE, formed in response to the closing of the Fly-by-Night lesbian bar run by Toronto Gay Action member Pat Murphy on February 9, 1981, but it grew beyond any single issue. Lorna Weir reported in *Broadside* that the consensus of the meeting “was that a lesbian organization is needed in Toronto.”¹⁷⁶ The lack of lesbian social spaces and political groups was blamed on “a lack of political experience” by a movement that had “been in existence for little more than a decade.”¹⁷⁷ Ultimately, the closing of the Fly-by-Night,

¹⁷² Ibid.

¹⁷³ “Coordinating Committee meeting,” CLGA, RTPC (1986-002) Box: 1, File: Minutes, April 26, 1981: 6.

¹⁷⁴ “Minutes of Executive meeting,” CLGA, RTPC (1986-002) Box: 1, File: Minutes, November 22, 1981: 6

¹⁷⁵ “Flyer – Strange Bedfellows,” CLGA, RTPC (1986-002), Box: 1, File: Posters, June 25, 1981.

¹⁷⁶ Lorna Weir, “Lesbians Against the Right,” *Broadside: A Feminist Review*, June 1981: 9.

¹⁷⁷ Ibid.

attacks on lesbians, and lack of protection from the police resulted in the formation of a new group, Lesbians Against the Right (LAR). Several groups joined in organizing a boycott of the Quest, which was owned by Phil Stein. Stein also owned the space where the Fly-by-Night operated, and there were complaints that he mistreated the bar's lesbian workers.¹⁷⁸ The RTPC provided lukewarm support. McCaskell and the PAC decided to support the boycott, but Smith and the RTPC Coordinating Committee voted against this.¹⁷⁹

The LAR and RTPC briefs to Bruner serve as a useful lens to view the difference in priorities for these two groups, particularly because the LAR arguments had no reference to the Criminal Code. LAR was concerned about other aspects of the law that were used against lesbians and lesbian spaces. For example, their first point was about the enforcement of liquor licence laws, that were used to disrupt the Bi-National Lesbian Conference in 1979, and used against dances in 1980 and 1981.¹⁸⁰ This demand was prophetic of the September 2000 raid on the lesbian bathhouse night, Pussy Palace. This raid was not due to bawdy house charges, but rather, alleged violations to the liquor licence.¹⁸¹ They argued that police used verbal harassment against lesbians, and that agents conducted surveillance at the Fly-by-Night and at the Brunswick Hotel.¹⁸² The RTPC brief to Bruner made 26 demands aimed at reforming the police and the enforcement of the law. Some of these would have intersected with the LAR demands, including police discipline, harassment by police on the streets, and a call for an inquiry into police brutality at protests.¹⁸³ However, the RTPC brief did not mention any specific instances directly affecting women or lesbians.

¹⁷⁸ Elinor Mahoney, "Boycott is hurting, Quest owner admits," *The Body Politic*, June 1981: 11.

¹⁷⁹ "Coordinating Committee meeting," CLGA, RTPC (1986-002) Box: 1, File: Minutes, April 26, 1981: 7.

¹⁸⁰ "Lesbians Against the Right Brief to the Bruner Study," CLGA, Arnold Bruner (98-050), Box: 1, File: 7, n.d: 1.

¹⁸¹ JP Hornick, "Pussy Palace: Fighting the cops and winning," *Daily Xtra*, June 22, 2005 [online]

<http://www.dailyxtra.com/toronto/pussy-palace-fighting-the-cops-and-winning-12333>

¹⁸² "Lesbians Against the Right Brief to the Bruner Study," CLGA, Arnold Bruner (98-050), Box: 1, File: 7, n.d: 2.

¹⁸³ "RTPC Brief to the Bruner Study," CLGA, Arnold Bruner (98-050), Box: 1, File: 7, n.d: 1.

This was part of a larger divide between lesbians and gay men: lesbians were generally not the target of Criminal Code provisions relating to indecency. According to Karen Pearlston, lesbians in Canada were not the target of gross indecency. The 1969 Omnibus Bill was a partial decriminalization for gay men, not for queer women. Instead, changes to the Divorce Act in 1968, which made it easier for men to divorce their lesbian wives, had a greater effect on the lived experiences of women.¹⁸⁴ Becki Ross noted these differences in her study of LOOT:

...lesbians have been much less directly managed by the Criminal Code and police activity through obscenity and gross indecency statutes. State-administered legislation is anchored in the institutionalization of compulsory heterosexuality, for instance, child custody laws, tax and probate laws, and laws that govern medical/health insurance, inheritance, pensions, and immigration in ways that have negatively affected lesbians."¹⁸⁵

Although Bill C-53 included some amendments that would have affected gay sex, its primary purpose was to alter sections of the Criminal Code affecting women. George Smith and the RTPC was contacted by individuals in the women's movement who were also preparing briefs on C-53, they were curious to find issues in which in which queer men and women could work together. During Smith's academic career he studied under the supervision of Dorothy Smith and developed a Marxist approach to feminist theory. However, there was no broad consensus within the RTPC to pursue additional reforms beyond Criminal Code references to indecency. Smith acknowledged that there was a division between the aims of gay men in Criminal Code reform, versus the aims of feminists. He replied:

... our brief has little to do with the status of women or with the prosecution of rapists. I am not sure, consequently, just how relevant our brief is to your research. The RTPC, of course, is prepared to support progressive legislation with regards to the status of women, but being essentially an all-male organization, it believes that the leading edge of such reform is essentially the work of women themselves.¹⁸⁶

¹⁸⁴ Karen Pearlston, "The State's Business in the Bedrooms of Lesbian Nation," [draft] in Christabelle Sethna and Christopher Dummitt, eds., *Canadian Sex Lives and the Omnibus Bill* (forthcoming 2019).

¹⁸⁵ Becki Ross, *The House That Jill Built: A Lesbian Nation in Formation*, Toronto: University of Toronto Press, 1995: 6.

¹⁸⁶ Letter from George Smith to Suzanne Morphet, CLGA, RTPC (88-011), Box: 1, File: 10, February 13, 1982.

As political attentions shifted to the courts, a rally was held on February 5, 1982 to commemorate the first year anniversary of Operation Soap. During the rally, the only speaker to reference women's and lesbian issues was the sole lesbian speaker, and any lesbian chants were drowned out by the RTPC-led sound truck. According to the men in the RTPC, the rally was during bitter cold weather and all of the speeches had to be cut. McCaskell remembers that Smith was angry with him for cutting his speech, given that he had an important message to deliver to the community about continuing the battle over the Criminal Code.¹⁸⁷ In keeping the speeches short and the speakers list small, lesbians and issues facing women were excluded. In a letter to the RTPC from LAR, they confronted the men:

All too frequently, our expected role at demonstrations has been to identify our issues with yours, and then to offer gay men unconditional support for our supposedly mutual struggles. This can leave us with the uneasy feeling of playing in to the self-oppressive script of women identifying with and selflessly nurturing male needs. Lesbian feminists do not relish the role of being cheerleaders at gay male rallies.¹⁸⁸

An apologetic response was crafted by the RTPC at their next executive meeting, blaming the cold weather for the lack of lesbian representation, and promising to ensure lesbian speeches and chants would be given from the sound truck at future rallies.¹⁸⁹

Bill C-53 provided an opportunity for the RTPC to stand in solidarity with women's issues with regard to prostitution. In their political actions over the legislation, the RTPC launched a campaign to place a full page advertisement in the *Globe and Mail* using the language of Trudeau's 1967 Omnibus Bill statement that "there's no place for the state in the bedrooms of the nation." The idea for this ad came from Tim McCaskell and was debated by the RTPC executive committee on May 25, 1981. The debate centred on whether to solely call for the repeal of the indecency section of the law, or make a broader case for eliminating the bawdy house law entirely. RTPC member Paul Rapsey argued that "the

¹⁸⁷ Interview with Tim McCaskell, September 18, 2012.

¹⁸⁸ Letter from LAR to RTPC, CLGA, RTPC (88-011), Box: 1, File: 10, March 6, 1982.

¹⁸⁹ "Minutes of Executive meeting," CLGA, RTPC (1986-002) Box: 1, File: Minutes, March 21, 1982: 7.

‘indecent acts’ issue is most crucial, and incorporating our argument with the prostitution issue will make the matter very complicated.”¹⁹⁰ The executive opted to debate the issue at a general meeting of the membership, which proved contentious. At the end of that process, the RTPC opted to stand in solidarity with sex worker advocates in calling for the repeal of the bawdy house law in its entirety.¹⁹¹ In January 1982, McCaskell began raising funds required to place the ad.¹⁹² The advertisement was featured in the June 2, 1982 edition of the *Globe and Mail*, and read, “The State has no business in the bedrooms of the nation.”¹⁹³ In the text of the ad, the RTPC declared the bawdy house law “vague and archaic” and that the intent of Parliament in 1969 was “being flagrantly disregarded.”¹⁹⁴ Ultimately, McCaskell raised \$14,500 to pay for the ad, and he collected 1,482 signatures which surround the advertisement text.¹⁹⁵

The RTPC used Pierre Trudeau’s own words against him, but the 1967 phrase must be understood in gendered terms. “The bedrooms of the nation” was gendered space. According to Kinsman, the private/public divide that emerged after the Wolfenden Report shifted many sex and gender questions to the realm of the private dwelling space. The “idea of privacy was associated with private property and ownership,” which privileged men and regulated women.¹⁹⁶ The Committee Against Street Harassment (CASH) argued in the *Body Politic* in 1979 that “though the law maintains it has no jurisdiction in the sexual activities of two consenting adults, it still governs women’s sexual behaviour with men.”¹⁹⁷ In the bedrooms of the nation, women were the sexual property of their

¹⁹⁰ “Minutes of Executive meeting,” CLGA, RTPC (1986-002) Box: 1, File: Minutes, May 25, 1981: 4.

¹⁹¹ McCaskell, *Queer Progress*, 167.

¹⁹² “Minutes of Executive meeting,” CLGA, RTPC (1986-002) Box: 1, File: Minutes, February 2, 1982: 1.

¹⁹³ “The State has no business in the bedrooms of the nation,” *Globe and Mail*, June 2, 1982: 12.

¹⁹⁴ *Ibid.*

¹⁹⁵ “Minutes of Executive meeting,” CLGA, RTPC (1986-002) Box: 1, File: Minutes, June 13, 1982: 2; Kevin Orr, “Prominent Canadians sign up for privacy,” *The Body Politic*, May 1982: 14.

¹⁹⁶ Kinsman, 221-222.

¹⁹⁷ CASH was formed as a successor to Better End All Vicious Erotic Repression (BEAVER), see Deborah R. Brock, *Making Work, Making Trouble: Prostitution as a Social Problem*, Toronto: University of Toronto Press, 1998, 40.

husbands, so indecency did not apply. As part of C-53, the criminalization of spousal rape was a top priority for women's groups. The RTPC ultimately stood in solidarity with women's issues on the bawdy house law. However, this support must be understood within the broader context of a continual trend toward associating the bathhouse raids solely with the struggles of gay men.

The bathhouse raids had implications for lesbians beyond their relationships to gay men. Sue (Johnny) Golding, who was a writer for the *Body Politic* and a protest marshal in several RTPC demonstrations, noted the transformation of lesbian consciousness in the wake of Operation Soap. This was a time that Golding dubbed the "Historical Crumble," where spaces that catered to queer women disappeared and the sexual liberation movement was increasingly associated solely with white, middle-class, gay men. The bathhouse raids and the defense of kink and non-monogamous sex meant that many queer women were increasingly questioning the state of lesbian sexual consciousness.¹⁹⁸ Golding argued that after Operation Soap, sex-positive attitudes among women could be classified into three categories: the good, the bad, and the ugly. The good, which prevailed until the bath raids, were "bambi-sexuals" who "would attempt to strive for monogamous-but-equal lover/friendships and would tend to understand that striving as feminist."¹⁹⁹ Lesbian couples who attempted kinky sex or were open to "flings and affairs" comprised "the bad." Finally, the ugly sex radical developed after the community rallied behind the gay bathhouses. This "ugly" included public and park cruising, leather, "Crisco," dildoes, and viewed this "as a fundamental challenge to heterosexist power relations and bourgeois regulations which either assumed women had no Sex, or if we had a Sex, had assumed that that sex must be contained in as close to a propertied/monogamous relationship as possible."²⁰⁰ Golding and others were inspired by the work of Michel Foucault in understanding the social construction of

¹⁹⁸ Sue Golding, "Knowledge is Power: A Few Thoughts about Lesbian Sex, Politics and Community Standards," *Fireweed*, 13 (1982): 93.

¹⁹⁹ *Ibid*, 98.

²⁰⁰ *Ibid*, 99.

sexuality.²⁰¹ The bath raids helped inspire a new debate among libertarians, sex radicals, and feminist scholars on the place of pleasure and sadomasochism in sexual liberation.²⁰²

Conclusion: Legitimate, but Still Criminal

Something really got into queer activists after Operation Soap. Part of it was the rage, the other part was the opportunity. Never had that many people turned out for a street demonstration. February 1981 was not a time for disciplined action through a micromanaged RTPC. The radical queers seized the opportunity to use the RTPC institution to coordinate mass community participation. The meeting at Jarvis Collegiate demonstrated that these activists could repeat their mass mobilization, with protests on February 20, and then again in June in response to two more bath raids. The result was a controversial turn to focus on the Criminal Code, which revealed tensions between gay men and lesbians in coordinating political action.

The Bruner Report declared that the queer community was legitimate. This was seen by many as a turning point, particularly in the wake of the 1979 “declaration of concern and intent,” which excluded reference to sexual minorities. However, the emphasis on establishing a police liaison committee was met with criticism by RTPC activists. The problem for them was not a matter of communication, but rather, of institutional structures that enabled police oppression. George Smith argued that the Criminal Code was the source of the problem in the bath raids. With a *Globe and Mail* advertisement to support their cause, Smith and gay consultant Graham Crawford went to Parliament to change the law.

²⁰¹ Steven Maynard, “‘The Party With God’: Michel Foucault, the Gay Left and the Work of Theory,” *Cultural History*, 5:2 (2016): 135-136.

²⁰² *Ibid*, 137.

Chapter 4 – The RTPC Goes to Ottawa: Confronting Mononormativity in Parliament, 1982¹

On August 28, 1971 queer activists did something quite radical: they marched to the doors of Parliament Hill and pronounced a 10-point platform for sexual liberation called “We Demand”. Over 10 years later, liberationists went back to the Hill; this time, however, they were inside the doors. Their goal was to lobby members of the Standing Committee on Justice and Legal Affairs (SCJLA) to fulfil the first demand listed in 1971: the repeal of the 'gross indecency' and 'indecent act' sections of the Criminal Code. Over the two years spanning 1981-2, the parliamentary committee debated a new omnibus bill designed to modernize many of Canada’s sexual offences laws called Bill C-53: an Act to amend the Criminal Code in relation to sexual offences and the protection of young persons. C-53 never made it through the committee stage, and died at the 1982 summer recess, leaving those demands from 1971 unfulfilled.

Two queer organizations presented deputations: George Smith and Graham Crawford represented the RTPC, and Ron Dayman represented l’Association pour les droits des gais et lesbiennes du Québec (ADGLQ). As explored in Chapter 2, it was Smith who initially advocated for Criminal Code reform within the RTPC, making it a key part of the Committee’s political platform at the May 1980 RTPC policy conference. This stemmed from a conference dialogue with Peter Maloney, who argued that the reason the group was suffering from a political crisis and lack of volunteerism was that the RTPC was only utilizing the “politics of opportunism.” In other words, because the RTPC was built as a defence fund reacting to bathhouse raids, the group was reactive as opposed to proactive. Smith equated the “politics of opportunism” with the “politics of distraction,” and that the RTPC needed “a politics of deliberate alignments.” It was unanimously agreed by all of those voting at the RTPC policy conference

¹ Sections of this chapter appear in Tom Hooper, “More than two is a crowd:” Mononormativity and Gross Indecency in the Criminal Code, 1981-2,” *Journal of Canadian Studies*, 48:1 (2014): 53-81.

that the overall policy of the group would be to abolish “all criminal laws affecting private, consenting adult behaviour.” This was consistent with the 1971 “We Demand” to remove the gross indecency and indecent act sections of the Code. “We Demand” did not call for the removal of the bawdy house laws. The RTPC, however, did.

Weeks prior to the February 5, 1981 raids, Bill C-53 was introduced in the House of Commons. The provisions contained in C-53 stem from a Report on Sexual Offences published by the Law Reform Commission of Canada, an agency created by the Trudeau government in 1971 tasked with continuing the modernization of the Criminal Code as exemplified by the 1968-9 Omnibus Bill, which decriminalized homosexuality, birth control, and abortion, in certain circumstances. In crafting Bill C-53, the Trudeau government took all the recommendations from the Commission on changes to sexual assault and spousal rape, but they opted to not take the Commission’s recommendation to remove gross indecency from the Criminal Code. Instead, they proposed to liberalize the gross indecency section, which, had it passed, would have resulted in the legalization of group sex in Canada.² Smith and Crawford from the RTPC presented a deputation in favour of this liberalization of gross indecency, urged the Committee to remove gross indecency and indecent act from the code altogether, and they proposed the removal of the bawdy house laws.

After a series of discussions on group sex and public sex, the Liberals gutted the liberalization of gross indecency from C-53, and opted instead to focus only on those provisions which were agreeable to all, namely the changes to sexual assault and the criminalization of spousal rape. With the Law Reform Commission Report, the political outrage and the mobilization of the community in the wake of Operation Soap, C-53 seemed like a prime opportunity for the RTPC to move on these original 'We Demand' priorities. The RTPC launched a multi-faceted campaign that confronted the state in the

² Paul Trollope, “Law commission calls for repeal of most “sexual offence” laws,” *Body Politic*, February 1979: 10.

streets, the media, and in Parliament. They confronted the state in the streets during the various protests from the 1981 bath raids. They confronted the state in the media by organizing a full page ad in the *Globe and Mail* in support of their position on the bawdy house law.³ Finally, they confronted the state in Parliament by lobbying the members of the Justice Committee. So why was C-53 gutted? Some queer activists claimed that the demise of C-53 was due to a resurgence of a 'moral majority' in Canada. Others argued that there wasn't enough focus on the campaign to reform the Criminal Code from sexual liberation groups. And still others have suggested it was due to homophobia among the ranks of parliamentarians.

C-53 was gutted for two reasons. First, a moral panic was created by Canada's police forces and the various provincial Attorneys General regarding the protection of public morality, as it was argued that liberalizing the public morality clauses in the Criminal Code would lead to prostitution and organized crime.⁴ These two groups were the only ones who spoke against these sections of C-53 and thus, at Committee level deputations at least, this was the only external source of pressure on the Liberals to backtrack. Secondly, a careful reading of the Committee deliberations demonstrates a prevailing, socially conservative, heterosexist view of appropriate sexual relations espoused by many members of the Committee, from both Progressive Conservatives and Liberals. A letter writing campaign organized by the religious right, as well as a moral opposition from within his own party to liberalizing Canada's sex laws, prompted Chrétien to backtrack on C-53. The moral opposition to C-53 was heterosexist; while Canadian society was willing to accept a limited decriminalization of homosexuality (such as the 1969 decriminalization), they were not willing to accept any further

³ RTPC Advertisement, "The State has no business in the bedrooms of the nation," *Globe and Mail*, June 2, 1982: 12.

⁴ Various police forces have a long history of establishing moral panics in order to construct Canada's queer population as a moral danger, a criminal danger, or as a threat to national security. These themes are the focus of Gary Kinsmen and Patrizia Gentile's recent book *The Canadian War on Queers*. See Gary Kinsmen and Patrizia Gentile, *The Canadian War on Queers: National Security as Sexual Regulation*, Vancouver: UBC Press, 2010.

breaches to heteronormative sexual behaviour, such as group sex within a bathhouse. Gay was good, provided that 'gay' meant approximating monogamous heterosexuality as closely as possible, and that in particular, it was kept out of the public in the narrowest definition of privacy.

The 1969 partial decriminalization of homosexuality was carried out on heterosexist terms; far from the sexual liberation experienced through anonymous or group sex as was so commonly found in gay bathhouses. "More than two is a crowd," the sentiment expressed at the Committee by Liberal MP Ken Robinson (Etobicoke-Lakeshore), demonstrated the limits of Pierre Trudeau's criminal law liberalism and revealed an adherence to traditionally defined monogamous heterosexism.⁵ Legal gay sex was defined in the Criminal Code as an "exception"; the clause in the Code that liberalized homosexuality was referred to as the 'exception clause' to gross indecency, making it legal for gross indecency to take place in private provided there were only two participants. This idea of "mononormativity," fed by a 'law and order' moral panic created by various chiefs of police and attorneys general on the dangers of homosexuality and sexual freedom, led to a last minute repeal of the Law Reform Commission's recommendation to liberalize gross indecency in the Criminal Code.

Heterosexism, Mononormativity, and the Criminal Code

In all areas of the RTPC's various activities (organizing protests against the bath raids, arranging for the legal defense for the hundreds of men charged, lobbying various levels of government, including in Ottawa for C-53), activists faced immeasurable homophobia. Many of the police officers, prosecutors, members of the media, politicians, and most of broader early 1980s Canadian society shared the widely held perspective that men who had sex with men were gross, dirty, disgusting, deviant, and dangerous. Identifying and combatting homophobia has been a useful method for human rights activists, queer activists, and other social movements to call attention to the oppression and

⁵ Standing Committee on Justice and Legal Affairs. Minutes of Proceedings. (Issue No. 81, May 5, 1982) 32nd Parliament, 1 Session: 18.

bullying that many queers face in our daily lives, but homophobia is not the cause of our oppression; it is a symptom of something broader. A majority of the Members of Parliament on the Committee examining Bill C-53 may very well have been homophobic, and some of their statements lend evidence to that. But the failure to liberalize gross indecency in C-53 was not merely due to personal homophobia.

Two members of the RTPC (Chair George Smith, and Public Action Committee member Gary Kinsman) published scholarly work advancing theories related to queer oppression after their experiences in the early 1980s. Both of these activists contest the idea that homophobia is at the root of queer oppression. Kinsman argued that “such a focus on homophobia often operates to obscure the social relations and practices that shape lesbian and gay oppression.”⁶ Instead, Kinsman preferred the term ‘heterosexism’ and he sees homophobia “as a particularly virulent personal response organized by heterosexist discourse and practice.”⁷ Similarly, Smith argued that the localized interactions between queers and the police cannot be described simply as homophobia, but that the homophobia present during the raids was “the result of a much more extensive organization located elsewhere.”⁸ Homophobia, then, is not at the root of queer oppression, but is a coercive means of upholding heterosexual hegemony.

Heterosexism is a result of certain types of sexual behaviour being regarded as normal and natural, and any deviation from this natural order, such as homosexuality, is marginalized by being associated with “the dangerous, the impure, the unnatural, the sick, and the abnormal.”⁹ Heterosexuality, as one of its many definitions over time, means sexual practices are to take place

⁶ Gary Kinsman, *The Regulation of Desire: Homo and Hetero Sexualities 2nd Ed.*, Montreal: Black Rose Books, 1996: 33.

⁷ Kinsman, 34.

⁸ George Smith, “Policing the gay community: an inquiry into textually-mediated social relations,” *International Journal of the Sociology of Law*, 16 (1988): 262.

⁹ Kinsman, 29.

between one man and one woman, in private, within a monogamous marriage, and for the purposes of creating a family unit with rigid roles for each member of that unit. There are two things to understand with regard to heterosexual hegemony in the early 1980s: first, the normal/natural order was not necessarily followed by those claiming to be heterosexual, and second, heterosexual hegemony was undergoing rapid change. Kinsman notes that heterosexual hegemony “rigorously associates sexual acts with gender and sexual identity,” but this did not stop ‘straight’ men from secretly having sex in gay bathhouses, unbeknownst to their families.¹⁰ With the partial decriminalization of homosexuality from the 1969 Omnibus Bill, and a rigorous redefinition of gender roles as a result of Canada’s feminist movement, the 1970s and early 1980s was a time of rapid contestation of heterosexual hegemony and new battle lines were being drawn.¹¹ Indeed, the other sections of C-53 were part of this reorganization: with the criminalization of spousal rape in Bill C-53, the long standing tradition within heterosexual hegemony that a wife was the sexual property of her husband was no longer the case (at least insofar as the law was concerned).

The story of C-53 and the unwillingness of the Committee to liberalize gross indecency demonstrates an adherence to a particular component of heterosexual hegemony: mononormativity. This is a relatively recent theoretical term introduced by German sociologists Marianne Pieper and Robin Bauer.¹² The term is probably best summed up by Meg Barker and Darren Langdrige who explain that mononormativity refers “to dominant assumptions of the normalcy and naturalness of monogamy, analogous to such assumptions around heterosexuality inherent in the term heteronormativity.”¹³ Similarly, Mark Finn contends that mononormativity refers to the relations of power as a result of seeing

¹⁰ Kinsman, 37.

¹¹ Gentile and Kinsman view the 1969 Omnibus Bill as a ‘partial decriminalization’: Gentile and Kinsman, 221.

¹² Robin Bauer, “Non-Monogamy in Queer BDSM Communities: Putting the Sex Back into Alternative Relationship Practices and Discourse,” in Meg Barker and Darren Langdrige, eds., *Understanding Non-Monogamies*, New York: Routledge, 2010: 145.

¹³ Meg Barker and Darren Langdrige, “Whatever happened to non-monogamies? Critical reflections on recent research and theory,” *Sexualities*, vol. 13, no. 6 (2010): 750.

monogamy as natural, moral, and essential.¹⁴ The normal/natural definitions of sexual relations that characterize heterosexual hegemony¹⁵ mean that the quantity of participants is just as important to the equation as the genders of the participants. Polygamy and its associated history with certain religious sects in the United States and in British Columbia reveal that mononormativity has been challenged and contested, but there are many other forms of non-monogamies, including those that have application to queers in the 70s and early 80s (and beyond).¹⁶

Many queers, already weary of the gendered component to heterosexist relationship requirements, perceived other forms of relationships that did not require faithfulness or exclusivity. By stepping outside of the boundaries of heterosexual sex, a whole host of non-monogamous relationship formats were opened up to them.¹⁷ Barry Adam, in his study of 70 men creating various types of relationship formats, notes that gay men “are able to avail themselves of new opportunities for constructing relationships without much of the ‘baggage’ of patriarchy and traditional gender expectations.”¹⁸ Philip Blumstein and Pepper Schwartz published their book in 1983, close to the time of the Toronto Bathhouse Raids. In their study of male couples in the United States, they found that a significant number (82%) had attempted non-monogamous relationships.¹⁹ In my interview with Graham Crawford on his experience in the RTPC, he expresses a similar notion was felt among him and

¹⁴ Mark Finn, “Monogamous order and the chaotic excess,” *Psychology and Sexuality*, vol. 3, no. 2 (2012): 124.

¹⁵ I and others use the naturalness of monogamy as essential to the moral order in the same way Kinsman uses the naturalness of heterosexuality to articulate heterosexual hegemony: “This moral order, therefore, depends on the marginalization of anomalies and firm social boundaries demarcated by ‘natural’ markers that are rigorously policed: heterosexuality, in contemporary Western society, is associated with the natural, the normal, the clean, the healthy, and the pure; homosexuality, with the dangerous, the impure, the unnatural, the sick, and the abnormal.” Kinsman, 29.

¹⁶ Various scholars on this topic denote the difference between compulsory religious polygamy and consensual nonmonogamy. Consensual nonmonogamy is also differentiated between those who break a commitment to strict monogamy (marital infidelity) with those who choose to have an agreed-upon open relationship with their partner(s).

¹⁷ Brian Heaphy, Catherine Donovan, and Jeffrey Weeks, “A Different Affair? Openness and Nonmonogamy in Same Sex Relationships,” in Duncombe, Harrison, Allan and Marsden, eds., *The State of Affairs: Explorations in Infidelity and Commitment*, London: Lawrence Erlbaum Associates, 2004: 168.

¹⁸ Barry D. Adam, “Relationship Innovation in Male Couples,” *Sexualities*, vol. 9, no. 1 (2006): 6.

¹⁹ Philip Blumstein and Pepper Schwartz, *American Couples: Money, Work, Sex*, New York: Morrow, 1983: 288.

his fellow activists: that they all had gone through a similar deconstruction of heterosexuality that they found liberating. If the rules regarding the gender of their sexual partner could be bent, this led to them questioning other heterosexist relationship rules (such as how many partners and various levels of commitment, among others).²⁰ While Adam, Blumstein, Schwartz and Crawford reveal how some of the community questioned heterosexist relationship formats, it does not mean there was complete freedom from heterosexual hegemony. Criminal Code provisions criminalizing such behaviour, as reinforced by the Committee examining C-53, demonstrated that gay men were not completely free to explore new worlds of sexual relationships. This openness to new ideas regarding sexual relationships, as epitomized by the sexual freedom contained within the walls of a gay bathhouse, needed to be constrained and marginalized; criminal sanctions needed to be maintained, or so the arguments were made in the committee hearings on C-53. As Finn shows, deviating from the normal and natural was believed to lead to “chaos that allegedly lies outside of the healthy alignments of monogamous order.”²¹ Chaos, in the instance of liberalizing gross indecency in C-53, would come in the form of increased prostitution and organized crime, or so was the argument presented by Canada’s Chiefs of Police.

Monogamy has been essential to western sexual regulation since around the nineteenth century. French philosopher and historian Michel Foucault argued that in the eighteenth and nineteenth centuries there was “a centrifugal movement with respect to heterosexual monogamy.”²² Any other form of sexuality beyond this idea of a “legitimate couple” was labelled “unnatural” and thus subject to the scrutiny of emerging systems of medicine, education, and criminal justice.²³ Kinsman argued that the 1957 British Wolfenden Report, which framed the 1969 reform debate in Canada, reoriented the relationship between criminal justice and morality on the basis of a public/private

²⁰ Interview with Graham Crawford, August 16, 2012.

²¹ Finn, 126.

²² Michel Foucault, *The History of Sexuality: An Introduction: Part 1*, translated by Robert Hurley, New York: Pantheon, 1978: 38.

²³ Foucault, *The History of Sexuality: An Introduction: Part 1*, 39-40.

divide.²⁴ Private monogamy became the new centrifugal morality. According to Kinsman, this “‘privatisation’ of sexual practice had a particular impact on the emerging erotic cultures of queer men.”²⁵ For married men, men who lived in the suburbs, or men whose cultures and families prevented open sexual expression, the only spaces available for sex were constructed in this new moral regime as ‘public.’ Bathhouses were public spaces because more than two people could be involved, either watching, or participating. Similarly, public parks late at night, or known gay cruising washrooms, became spaces of criminal investigation.

The Criminal Code was used in a violent and coercive way to uphold heterosexual hegemony. Kinsman points out that heterosexual hegemony (a term he draws from Antonio Gramsci) “unites the process of coercion and consent, viewing the two as often taking place through the same social practices.”²⁶ The monogamist component of heterosexual hegemony also falls into this theory. According to Meg Barker, monogamy is “reflected and perpetuated” through various media (such as music and movies) to present it as normal and natural. Elizabeth Emens’ article “Monogamy’s Law” argues that “norms strongly urge people toward monogamy,”²⁷ and that “this cultural law is reflected in a range of other legal contexts,” such as adultery laws, marriage laws, bigamy laws, custody cases, and others.²⁸ I draw on Emens’ argument by examining the Criminal Code in Canada, where these notions of monogamy were coercively enforced by the Police, prosecutors, and politicians under the guise of ‘gross indecency.’

²⁴ Gary Kinsman, “Wolfenden in Canada,” in Corinne Lennox and Matthew Waites, eds., *Human Rights, Sexual Orientation and Gender Identity in the Commonwealth: Struggles for Decriminalisation and Change*, London: School of Advanced Study, University of London, 2013: 189.

²⁵ Ibid.

²⁶ Kinsman, *Regulation of Desire*, 38.

²⁷ Elizabeth Emens, “Monogamy’s Law: Compulsory Monogamy and Polyamorous Existence,” *New York University Review of Law and Social Change*, 29 (2004): 284.

²⁸ Emens, “Monogamy’s Law,” 289-91.

Identifying the Criminal Code as a prime source of queer oppression in the wake of the bath raids was due primarily to George Smith.²⁹ In his 1988 article, “Political Activist as Ethnographer,” he argued that the gross indecency and bawdy house provisions of the Criminal Code directly governed the institutional relation between the police and the queer community.³⁰ In the article he made the link that “the work of the police in raiding the steam baths ... was an iteration of a course of action coordinated by the language of the Criminal Code.”³¹ In other words, for George Smith, both as chairperson of the RTPC and as an academic, the community’s relationship with the police could not be mended without changing the Criminal Code, as it was the Code that governed the relationship. Thus, the ‘we demand’ pertaining to gross indecency and indecent act was of high priority for Smith and other liberationists, particularly in the wake of the 1981 bath raids. The usage of language in the textual medium that is the Criminal Code, then, became the focal point of the RTPC political campaign at the federal level. The Law Reform Commission of Canada opened the door for Smith and the RTPC to go to Ottawa to present such an argument.

The Law Reform Commission of Canada

The demand to remove gross indecency from the Criminal Code went ignored until, almost by accident, the Law Reform Commission of Canada raised the issue in 1978. In their Working Paper 22, the Commission provided an examination of the Code’s provisions dealing with sexual offenses. Although most of Working Paper 22 and the subsequent Report on Sexual Offenses were designed to bring Canada’s violent and aggressive sexual crimes up to date, the Commission included a section in their report that recommended the ‘gross indecency’ section (S. 157) be repealed. They did not recommend this because they believed in the aims of liberationists; they made this recommendation

²⁹ In interviews with Graham Crawford, Tim McCaskell, and Dennis Findlay, George Smith was always seen as a leader in this regard.

³⁰ See Smith, “Policing the gay community.”

³¹ George Smith, “Political Activist as Ethnographer,” in Frampton et al, *Sociology for Changing the World: Social Movements/Social Research*, Halifax: Fernwood Publishing, 2006: 67.

because they felt that the concept of 'gross indecency' as a criminal offence was outmoded and unnecessary.

The 1969 partial decriminalization of homosexuality was met with criticism from queer activists: gay sex was still grossly indecent, but the state could make an exception provided it was kept out of the public eye and it resembled the normative, monogamous sexual behaviour of heterosexuals. The rhetoric of the 1969 Omnibus Bill was based on Trudeau's December 21, 1967 statement, "there's no place for the state in the bedrooms of the nation." He elaborated on this point: "what's done in private between adults doesn't concern the Criminal Code."³² According to John English, this ideology meant an individual would be "rid of his shackles and permitted to fulfil himself in society in the way which he judges best, without being bound up by standards of morality which have nothing to do with law and order but which have to do with prejudice and religious superstition."³³ It was also built on the theory that the Criminal Code, in particular, should be a specific set of enforceable laws meant to protect others in society from harm, and not used as an instrument of morality. The 1969 Omnibus Bill decriminalized "acts of gross indecency," not by removing the gross indecency section but by adding the amendment (S. 158) that stipulated it was permissible to be grossly indecent provided the act was committed in private and between two consenting adults (21 years old or over). Trudeau's liberal interpretation of the Criminal Code may have been seen as part of his "Just Society", but in implementation was still ignorant of the possibility that perhaps some Canadians enjoyed having sex with multiple partners at the same time, or in a place outside of the bedroom (such as a bathhouse).

The Omnibus Bill was passed during his first parliamentary session as Prime Minister, but to open the second session Trudeau proclaimed that more was to be done. The ideals of the 'Just Society'

³² "Omnibus Bill: 'There's no place for the state in the bedrooms of the nation,'" *CBC Digital Archives*, December 21, 1967: <http://www.cbc.ca/player/play/1811727781>

³³ John English, *Just Watch Me: The Life of Pierre Elliot Trudeau, 1968-2000*. Knopf Canada: 2009: 20.

were reiterated in the 1969 throne speech, which declared, “Canadians should know that this government will control and restrict within its competence any state activity which interferes unduly with individual liberty.”³⁴ Specifically related to the creation of the Law Reform Commission, Trudeau went on to say that “we intend to ensure that the laws parliament passes are worthy of respect.”³⁵ The Trudeau government, in justifying its need to create a commission for the reform of laws argued that the criminal law needed to be liberalized and modernized to meet the needs of a changing society.

The Law Reform Commission of Canada was created as part of Bill C-186, which was passed by Parliament in May 1970. C-186 was unanimously adopted through the Committee for Justice and Legal Affairs (with four amendments). The creation of the Commission was embraced by those on the right and the left. The position taken by the New Democratic Party (NDP), as articulated by John Gilbert (MP for Broadview), was that the Commission was necessary to implement progressive reforms to criminal law. But he hoped that the Commission would look not only at various laws and statutes but that it would also delve into changing the philosophy of criminal law itself.³⁶ Progressive Conservatives were critical of the Commission. According to Eldon Woolliams (MP for Calgary North), the Commission was necessary but feared it would serve the purpose of allowing the Liberals to “procrastinate” with respect to legal reform.³⁷ He also argued that the 1969 Omnibus Bill is a prime example of how the Trudeau Liberals represented the Omnibus Bill to Canadians as a significant reform, but in practice did little to answer the concerns of the constituencies affected by it. The day prior to Bill C-186’s third reading, the Abortion Caravan made its final stop in Ottawa (from Vancouver). In a ruckus protest in the Commons gallery, abortion activists chained themselves to their chairs, chanting in protest of the restrictive way in which abortion was decriminalized under the Omnibus Bill. While the Omnibus Bill decriminalized

³⁴ Canada. Parliament. House of Commons. *Debates*, 28th Parl., 2nd Sess., October 24, 1969: 42.

³⁵ *Ibid.*

³⁶ *Debates*, May 12, 1970: p. 6856.

³⁷ *Ibid.*, 6855.

abortion, it restricted its application by requiring that a woman who wanted an abortion needed to demonstrate to a committee of three doctors in an approved hospital that her health was in danger as a result of her pregnancy.³⁸ At the end of his Commons speech, Woolliams implored, “let us have no more of that fluffing which says that we are reforming the Criminal Code, particularly with respect to matters which affect [*sic*] the consciences of men and women like abortion and homosexuality, when in fact we are not changing the law one iota.”³⁹ While an overly harsh and politically charged criticism, Woolliams’ comments nonetheless articulated a widely held view of the Omnibus Bill among feminists and liberationists: lots of rhetoric, but not much substance. Eight years later, the Law Reform Commission of Canada provided an opportunity to present their case before Parliament.

The Commission’s Report on Sexual Offences was published in 1978. This report adhered to Trudeau’s vision of liberalizing and modernizing the law, but its focus was almost entirely on laws against rape and sexual assault, as opposed to morality-based provisions such as gross indecency. The focus on gender equality demonstrates the strength of the women’s movement of the 1970s, and highlights a lack of similar organizational political strength from liberationists. The all-male Commission was persuaded by Canada’s growing and increasingly organized women’s movement, which had spent much of the 1970s galvanizing for judicial, legal and legislative change to combat sexual inequality. Relating specifically to sexual offenses in the Criminal Code, the Advisory Council on the Status of Women (ACSW) published a series of recommendations in 1976 aimed at the Minister of Justice on various provisions of the code that, from their view, required amendment or replacement. Entitled the Rationalization of Sexual Offences in the Criminal Code, the recommendations served to rectify the fact that “laws respecting rape and other sexual offences reflect out-moded stereotypes that have no place in the statutes designed to provide equal protection for men and women in a society free from

³⁸ “Angry, shouting women disrupt House sitting,” *Globe and Mail*, 12 May 1970, pp. 1-2

³⁹ *Debates*, May 12, 1970: p. 6855.

discrimination.”⁴⁰ Of the ACSW recommendations, most of them dealt with rape, such as changing the law to criminalize spousal rape, changing the language in the code from rape to sexual assault, and to ensure the protection of children under the age of 14.⁴¹ In addition to these, the ACSW felt that such a reform of the Criminal Code meant that the older sections could be repealed. But it was not simply the old rape laws that needed to be removed; they also advocated for the repeal of section 157 (acts of gross indecency) because, “these acts are not criminal acts but rather, are acts of a sexual nature about which consenting adults can make their own moral decisions.”⁴² The ACSW’s sentiments expressed in the Rationalization of Sexual Offences in the Criminal Code were similarly articulated by the Commission’s Working Paper 22 and the Report on Sexual Offenses.

Working Paper 22 established the tone with which the Commissioners were taking toward sexual offences in the Criminal Code. First, they argued that the Code ought to be simplified and clarified. It was the position of the Commissioners that, given the Code’s importance, it ought to be readily understood by ordinary Canadians who do not possess a law degree. But clarification also meant the removal of what they deemed, “anachronistic, euphemistic and emotionally charged expressions such as ‘carnal knowledge’, ‘previously chaste character’ and ‘rape.’”⁴³ Second, the Commissioners took a Trudeau-liberal tone to the Code that mirrored the rhetoric surrounding the 1969 Omnibus Bill:

While protection from society from crime is one goal, the criminal law should also maximize personal liberty and minimize state intervention. Because criminal sanctions diminish freedom, they should be invoked only with great restraint because of the impact of both misuse and overuse on the individual and the state. As a means of social control, the criminal law, then, should only be used as a last resort.⁴⁴

⁴⁰ Advisory Council on the Status of Women, *Rationalization of Sexual Offenses in the Criminal Code: ACSW Recommendations*, September 22, 1976: 9.

⁴¹ *Ibid.*, 5.

⁴² *Ibid.*, 8.

⁴³ Law Reform Commission of Canada, *Working Paper 22: Criminal Law and Sexual Offenses*, Canada: Minister of Supply and Services Canada, 1978: 2.

⁴⁴ *Ibid.*

‘Last resort’ meant that there were areas of criminal law that could indeed be used for social control. The Commission outlined three key areas, called ‘organizing principles,’ with which criminal law should be used to regulate the sexual activities of its citizens. The first issue was consent; the Commissioners argued that the Criminal Code should protect ‘the integrity of the person’. This policy determined how the Code ought to deal with rape and sexual assault, and the gender-neutral tone of this organizing principle was done purposely. The second issue was age and the protection of children and special groups. This principle was similar to consent as it was predicated on the notion that certain ages or groups, even if giving willing consent, were not in a position to truly understand the consent they were giving. The third and final organizing principle is what concerned liberationists the most: privacy and “safeguarding public decency.”⁴⁵ It was this organizing principle that shaped the way the Commission viewed ‘gross indecency’, and indeed, ‘safeguarding public decency’ was the justification used by police forces to raid Toronto bathhouses in 1981. While consent and age were of utmost importance for Canada’s women’s movement, clarifying the protection of “public decency” was of particular concern for liberationists, especially in the post-1978 era of the RTPC. This principle of “protecting public decency” was carried on from Working Paper 22 to the Commission’s official Report on Sexual Offenses.

In their report, the Commissioners continued to utilize the three organizing principles of Working Paper 22, but they made the argument that other sections of the Criminal Code would safeguard public decency, so section 157 (acts of gross indecency) could be repealed.⁴⁶ This recommendation did not make it into Bill C-53; instead, the Ministry of Justice opted to retain gross indecency, but they took the joint advice of NDP MP Svend Robinson and Progressive Conservative MP

⁴⁵ Ibid, 3.

⁴⁶ Law Reform Commission of Canada, *Report on Sexual Offenses*, Canada: Minister of Supply and Services Canada, 1978: 30.

Pat Carney to lower the age limit of the exception to gross indecency from 21 to 18. Clause 7 of Bill C-53 changed the exception from “any two persons, each of whom is twenty-one years or more of age,”⁴⁷ to “persons each of whom is eighteen years of age or more.”⁴⁸ This change is vitally important for two reasons: First, it lowered the onerous age restriction that was placed on queer sex which was not applied to heterosexual sex, and, second, the change from “any two persons” to “persons each of whom” could have, in theory, breached mononormativity by allowing for the possibility of sexual acts that involved more than two people.

It is unclear whether this change in language was on purpose or if it was simply making the assumption that people did not engage in sex with more than one person at a time. The four Commissioners, all of whom were established members of the legal profession,⁴⁹ wrongly made the assumption in their Report on Sexual Offenses that “the prohibition against ... acts of gross indecency no longer applies to acts committed in private between husbands and wives or between persons over twenty-one years of age.”⁵⁰ The distinction between “any two persons” and “between persons” is important; one restricts sex to two people, the other allows for the possibility of sex with more than one partner. Such a change would have created a more nuanced conception of the private/public divide beyond simply counting the number of participants, and yet the Report on Sexual Offenses made no comment about the legalization of group sex.

⁴⁷ Criminal Code – R.S.C. 1970, S. 158.

⁴⁸ Bill C-53: *An Act to amend the Criminal Code in relation to sexual offences and the protection of young persons and to amend certain other Acts in relation thereto or in consequence thereof*. 1 Reading, January 12, 1981. Ottawa: Ministry of Justice, 1981: 6; Also at CLGA, Arnold Bruner (98-050), Box 2, File 18: Legislation.

⁴⁹ The four Commissioners were: Francis C. Muldoon, who served on the Federal Court of Canada from 1983-2001; Jean-Louis Baudouin, who served on the Quebec Court of Appeal from 1989-2002; Gerard V. La Forest, who served on the Supreme Court of Canada from 1985-1997; and, Edward James Houston, served on the Ontario Court of Justice from 1990-1993.

⁵⁰ *Report on Sexual Offenses*, 30.

Standing Committee on Justice and Legal Affairs

Beyond a few statements in the House of Commons and a handful of newspaper stories recording Bill C-53's progress, much of the debate surrounding the major issues in the bill were debated at the Standing Committee for Justice and Legal Affairs. The vast majority of the debate was concerned with the sexual assault provisions; the type of reforms that modernized the way the Code defined rape. As such, most of the groups that went before the Committee were women's organizations. Professional associations, such as the Canadian Bar Association and the Criminal Lawyers Association of Ontario also presented briefs regarding sexual assault (the Canadian Bar Association brief was wrought with controversy over their stand against women's groups who wanted to change the term 'rape' to 'sexual assault'). The rest of the submissions, from queer groups (RTPC and ADGLQ), police associations (including the Metropolitan Toronto Police), and various provincial Attorneys General dealt with what were deemed the 'morality clauses' of C-53.

These morality clauses were contained in two sections of Bill C-53. Section 5 was designed to repeal the bestiality and buggery offenses of the Criminal Code (sections 155 and 156). This clause was designed to fulfil, in part, recommendation 11 of the Law Reform Commission's Report on Sexual Offenses, which argued that the offense of bestiality was regulated through various laws dealing with the protection of animals, and that the offense of buggery was covered in the new sexual assault provisions recommended by the Commission (when done using force or coercion).⁵¹ This was only part of recommendation 11 of the Report, as recommendation 11 argued that gross indecency should also be removed. However, C-53 dealt with gross indecency in clause 7, which was to lower the age of the exception clause from 21 to 18, and remove the limitation of "any two persons" to "any persons".

⁵¹ Ibid.

The members of the Standing Committee and the various groups who presented briefs dealing with the morality clauses of C-53 framed the debate around five key themes: a uniform age of consent, the definition of “indecent”, the bawdy house laws, group sex and orgies, and finally, on the distinction between public and private. The debate surrounding these themes reveals a great deal of tension between the social conservatives and social liberals on the committee, and it is important to understand that these tensions crossed party lines. There were Progressive Conservatives and members of the NDP who agreed on a uniform age of consent, and Liberals argued with Liberals about whether Canadian society ought to decriminalize group sex.

Before discussing these five themes, it is important to note that women’s groups, while focussed on the very important task of reforming Canada’s sexual assault laws, supported Canada’s queer community by calling for the removal of gross indecency from the Criminal Code. The moral regulation of gay sex and the ability for men to have sex in bathhouses were not the primary concern of women’s organizations in 1982. Modernizing Canada’s sexual assault laws and removing antiquated notions of gender were of primary importance for Canada’s major women’s organizations. This included such things as the removal of legal spousal rape and the gendered assumption that victims of sexual assault are always women, and several other recommendations that comprised the core of C-53. The attitude of the ACSW in their 1976 Rationalization of Sexual Offences in the Criminal Code was briefly repeated at the Committee in 1982: “we do not need to pronounce on morality. I think I would let the people decide.”⁵² When pressed by Svend Robinson, the ACSW went further and proclaimed “yes, that is our position, that there should be no discrimination on the grounds of sexual orientation.”⁵³ Several other women’s organizations who presented to the Committee indicated similar support.

⁵² *Justice and Legal Affairs*, No. 82 (may 6, 1982), 60.

⁵³ *Ibid*, 62.

The National Association of Women and the Law (NAWL) argued, “we simply feel that the acts now taking place under the offence of acts of gross indecency, which are coercive and assaultive, will fall under the sexual assault category. Otherwise, it is just a matter of, again, the Criminal Code dealing with morality, and we do not think that is appropriate.”⁵⁴ The use of morality was dealt with extensively in their presentation to the Committee, as they argued that a victim’s past sexual history should not be admissible as evidence in a sexual assault case. The idea “that loose women tell lies”⁵⁵ was seen as a type of morality-policing that had no place in the Criminal Code. Similarly, they argued that gross indecency should only be dealt with in the case of a sexual assault, and not in a case that is trying to police the consensual sex lives of Canadians. This was consistent with NAWL’s position a year prior when they argued in favour of adding sexual orientation to section 15 of Trudeau’s proposed Charter of Rights and Freedoms.⁵⁶ The National Action Committee on the Status of Women (NAC), Canada’s largest feminist umbrella organization comprising hundreds of member groups in 1981, deferred to the position of NAWL on the subject of the morality clauses. Although women’s groups did not make the morality clauses the focus of their presentations at the Committee looking at C-53, it was clear that they were supportive of liberation groups when it came to the five themes brought before the committee: a uniform age of consent regardless of sexual orientation, the definition of ‘indecency’, the bawdy house laws, group sex, and the distinction between public and private.

The issue of a uniform age of consent was brought to the Committee’s attention by George Smith and the RTPC. Smith articulated an equality-seeking argument that whatever the Criminal Code provides for in regulating the sex lives of homosexuals should be the same as it applies to

⁵⁴ *Justice and Legal Affairs*, No. 78 (April 27, 1982), 20.

⁵⁵ *Ibid*, 16.

⁵⁶ Andrew Szende, “Women vow to fight for equality in charter,” *Toronto Star*, 15 February 1981: A06. The ACSW also publically called for the addition of ‘sexual orientation’ in the *Charter*: “More Rights for women in Charter amendments,” *Toronto Star*, 12 January 1981: A09.

heterosexuals.⁵⁷ Under C-53, heterosexual consent was set at 14 in some circumstances, and 16 in other circumstances. But any form of homosexual sex, defined through case law as an act of gross indecency, was to be set at 18 years. So while the RTPC was pleased that C-53 sought to lower the age from 21, Smith made the argument that it ought to be lowered to the same age of consent for heterosexuals.

Pat Carney, Progressive Conservative MP for Vancouver-Centre, supported the RTPC in this regard. In fact, she was in favour of removing gross indecency from the Criminal Code entirely, leaving homosexual sex subject to exactly the same regulations as heterosexual sex (which were governed in the sexual assault provisions).⁵⁸ Carney was unique among her caucus colleagues in this regard, and she regularly came into conflict with her fellow Tories over issues such as women's rights and sexual minority rights. She was not a lifelong Tory, stating in her memoir *Trade Secrets* that "I wasn't sure I was a Conservative."⁵⁹ Her experience as an MP for a diverse urban riding helped shape some of these social values. Her campaign team in the 1979 federal election included a trans person, and while door knocking she "learned not to ask whether the wife or husband was available when canvassing gay households."⁶⁰ Although drawn to the party for her belief in fiscal conservatism,⁶¹ she frequently hosted informal "circles" of meetings with various community groups, among them racial minorities, women's groups, and queer activists.⁶² Carney's respect for the diversity of her riding shaped her attitudes toward sexual and gender rights; this set her apart from her fellow Progressive Conservatives, particularly on the committee examining C-53.

⁵⁷ *Justice and Legal Affairs*, No. 79 (April 29, 1982): 9.

⁵⁸ *Ibid*, 10.

⁵⁹ Pat Carney, *Trade Secrets: A Memoir*, Toronto: Key Porter, 2000: 170.

⁶⁰ *Ibid*, 179-80.

⁶¹ *Ibid*, 182.

⁶² *Ibid*, 186.

This was not the first time Carney expressed these views in Parliament. In May 1980, Pat Carney, through a private member's bill (C-242), attempted to add sexual orientation as prohibited grounds for discrimination to the Canada Human Rights Act. In addition, C-242 would also have removed gross indecency from the Criminal Code, thereby creating a uniform age of consent regardless of sexual orientation. Svend Robinson would go on to introduce similar legislation five times between 1983 and 1991, all of which were defeated. Carney, for years, had been advocating for a more progressive tone within the Conservative party; on one occasion in 1981 she decried the Tories, and Parliament in general, as nothing more than an "old boys club."⁶³ Although Carney received support from Robinson and some (though not all) members of the NDP, her private member's bill was defeated by her fellow Progressive Conservatives and the governing Liberals.⁶⁴ Clause 7 of C-53, lowering the age of gross indecency from 21 to 18 was seen by many members of the Committee as a compromise between the status quo, and what was being demanded by queer activists.

The ADGLQ believed that lowering the age restriction on gross indecency from 21 to 18 was a step in the right direction, but that "there is still discrimination, because Bill C-53 reduces the age of heterosexual consent to between 14 and 16 in most cases."⁶⁵ The ADGLQ agreed with the RTPC on equality-seeking grounds, but in their presentation to the Standing Committee, they posited a more nuanced conception of consent. Speaking on behalf of the ADGLQ, Ron Dayman argued that in cases of youth sexuality each case ought to be judged individually. So instead of a single standard age of consent, a raw number, Dayman suggested that the Criminal Code deal with each case individually to determine whether there was coercion of a minor. Despite this position, Dayman conceded that such an idea was not "possible in the present social circumstances."⁶⁶ The ADGLQ seemed uneasily content

⁶³ "Ottawa 'old boys club' slapped by woman MP," *Toronto Star*, February, 28 1981:A10.

⁶⁴ *Justice and Legal Affairs*, No. 79: 11.

⁶⁵ *Justice and Legal Affairs*, No. 87 (May 25, 1982): 6.

⁶⁶ *Ibid*, 15.

with C-53, making the argument that it, along with the 1969 Omnibus Bill, “is part of this long process of liberalizing the Criminal Code.”⁶⁷ The ADGLQ and the RTPC would much rather have seen the repeal of gross indecency from the Criminal Code, as opposed to a simple lowering of the age from 21 to 18. Svend Robinson pushed this issue toward the end of the debate on C-53 at committee. Acknowledging that C-53 was the last opportunity they would have to amend the gross indecency section of the criminal code for a while, Robinson asked then Minister of Justice Jean Chrétien, “why is the minister suggesting that we should pass a law that would make criminal, consensual conduct, sexual conduct, between two 17-year-olds?” Chrétien’s response was simple: the age of consent for homosexual sex would be 18, and thus more onerous than the age of consent for heterosexual sex, because “members of my own party have confirmed that it is in line with the committee’s wishes and has the agreement of a majority within the committee,”⁶⁸ a majority comprised mostly of Liberals.

The main problem these groups had with gross indecency had little to do with the law itself (given that under most circumstances the 1969 Omnibus Bill made it legal for them to have sex), and more to do with how their sex lives were defined by the state. Gross indecency was exactly the kind of antiquated Criminal Code provision that the Law Reform Commission was mandated to do away with. The concept of gross indecency came to Canada from Britain, where Oscar Wilde had his famous trial in which he was convicted of it 10 years after it was made a crime under the Criminal Law Amendment Act of 1885. Gross indecency was the criminal code provision which outlawed homosexuality in both Britain and Canada. Although the definition was slightly expanded to include acts that went beyond homosexuality, it was still the main purpose behind the criminal code provision and changed very little from its inception in Canada in 1892⁶⁹ until the 1969 Omnibus Bill. In Canada in 1965, Everett George

⁶⁷ Ibid, 5.

⁶⁸ *Justice and Legal Affairs*, No. 99 (June 22, 1982): 12.

⁶⁹ A.K. Gigeroff, “The Evolution of Canadian Legislation with respect to Homosexuality, Pedophilia and Exhibitionism,” *Criminal Law Quarterly*, vol 8, no 4 (1966): 449.

Klippert was charged with gross indecency for having consensual homosexual sex on four different occasions, and, because there were multiple counts, he was declared a dangerous sexual offender. In a highly controversial decision, the Supreme Court of Canada upheld his conviction and his status as a dangerous sexual offender in 1967.⁷⁰ This was one of the major contributing factors to the exceptions clause of gross indecency brought in by Trudeau's 1969 Omnibus Bill.

Yet the way in which homosexuality was supposedly 'decriminalized' in 1969 was not done by changing the definition of, or removing, gross indecency; it was merely a simple exception clause that enabled two men to be grossly indecent provided they conducted their indecency in private between two consenting adults over the age of 21. The law of the land, and the way it was interpreted by the courts, was still the same: homosexual sex was grossly indecent and, as such, was subject to certain restrictions and limitations. This was seen as completely unacceptable to the members of the ADGLQ. Facing skeptical questions from Jim Peterson, the Liberal MP for Willowdale, Ron Dayman (representing the ADGLQ) argued against Peterson's assertion that gross indecency was not discriminatory toward homosexuals. While Peterson was technically correct that gross indecency could theoretically be used against heterosexuals, Dayman presented the statistic that "in about 85 per cent of the cases, [it] is used against homosexual activity."⁷¹ Further, Dayman passionately described his own feelings toward gross indecency:

As long as gross indecency remains in the Criminal Code, homosexuality and all homosexual acts are considered to be gross indecency. We will not accept that, no matter what circumstance they are under. It should not remain there. We should not be having our sexual lives defined as gross indecency. I refuse to have my relationship of six years with another man defined as gross indecency. Okay? I think that my relationship, my situation, is as viable as anyone else's, and I refuse to have my sexual life defined as gross indecency in the Criminal Code.⁷²

⁷⁰ Klippert v. The Queen, [1967] S.C.R. 822.

⁷¹ *Justice and Legal Affairs*, No. 87: 19.

⁷² *Ibid.*

For the Law Reform Commission, removing gross indecency from the Criminal Code was merely a form of housekeeping on an antiquated law that was alleviated by the 1969 exception clause. But for sexual liberation groups, the removal of gross indecency meant that they could live in a society where their private sex lives were not morally judged by the country's Criminal Code. It is important to note in this instance that Dayman himself utilized a monogamist argument ("my relationship of six years with another man" or in describing his situation "as viable as anyone else's") in favour of removing gross indecency from the code. Although he and the ADGLQ also spoke in favour of enabling the C-53 provision that would have allowed group sex, it is interesting to see how hegemonic attitudes (in this case mononormativity) can creep into arguments made in the heat of parliamentary proceedings.

For gay men, the definition of indecency was directly linked to the bawdy house laws. It was the bawdy house laws and not the provision against gross indecency that led to the infamous 1981 bath raids in Toronto. According to lawyer J. Stuart Russell, Canada's bawdy house laws stem from Britain, but when the bawdy house provision was placed in the Criminal Code in 1892, it was designed solely to prevent houses of prostitution.⁷³ The bawdy house clause in the Criminal Code was amended in 1917, and this amendment broadened the definition of a bawdy house to include not only places of prostitution, but also places "for the practice of acts of indecency."⁷⁴ In his analysis of the bawdy house laws, Russell includes a section that quotes then Minister of Justice C.J. Doherty who explained, "there has unfortunately grown up in different cities under the guise of legitimate places of business – such as massages, etc. – establishments which are resorted to not for purpose of prostitution, but for the purpose of the commissions of acts of indecency."⁷⁵ It is exactly this kind of vague, anachronistic language that the Law Reform Commission intended to fix.

⁷³ J. Stuart Russell, "The Offence of Keeping a Common Bawdy-House in Canadian Criminal Law," *Ottawa Law Review*, Vol. 14 (1982): 274.

⁷⁴ *Ibid*, 275.

⁷⁵ *Debates*, 12th Parl., 7th sess., August 9, 1917: 4292.

It was clear, even to the Law Reform Commission, that the bawdy house laws needed to be reviewed, changed, or even perhaps repealed; and this was a sentiment shared by many of the groups who came to Parliament to discuss C-53.⁷⁶ In the Commission's Working Paper 22, the Commissioners acknowledged the fact that they needed to examine the bawdy house laws, but that they were going to not deal with it this time around, claiming "no recommendations on bawdy-houses, procuring and soliciting are being proposed at this time." Instead, "a study relating to this area of the law should precede such recommendations."⁷⁷ Canada's bawdy house laws are inextricably linked to the way in which prostitution is regulated by the state; such a large issue could not be easily dealt with whilst the Commission was attempting to modernize Canada's sexual assault laws. So they took a pass on the bawdy houses, but this did not prevent women's organizations or members from the RTPC and the ADGLQ from raising the issue while discussing C-53. The Commission sought to leave bawdy houses out of the equation until all matters relating to prostitution could be dealt with, but for these other groups, the 1917 amendment put the bawdy house laws within two realms: prostitution and/or indecency. Prostitution was a matter to be dealt with on its own, yet acts of gross indecency were put on the table as part of C-53; bawdy houses were stuck in between. As such, several groups called for the repeal of the bawdy house laws. In their presentation entitled, *Brief on Prostitution, Solicitation, Bawdy-Houses and Related Matters*, for example, the Vancouver Coalition for a Non-Sexist Criminal Code, in a position that was endorsed by the NAC,⁷⁸ argued that "section 193, keeping a common bawdy house, ought to be repealed."⁷⁹

⁷⁶ During the debate over C-53, the House of Commons asked the Standing Committee for Justice and Legal Affairs to examine the issue of prostitution and bawdy houses, as a separate issue from C-53. There is a great deal of rich material in C-53 and I really hope that a fellow scholar will delve into the issues that come into play there.

⁷⁷ *Working Paper 22*: 42.

⁷⁸ *Justice and Legal Affairs*, No. 91 (June 1, 1982): 5.

⁷⁹ *Justice and Legal Affairs*, No. 90A (May 27, 1982): 3.

In noting the absence of any recommendations related to the bawdy house laws, the RTPC called it “an oversight of grave concern.”⁸⁰ In the section that immediately followed their brief’s short introduction, the bawdy house laws were portrayed by the RTPC as the means that the police had used to “circumvent the will of Parliament in the 1969 Amendments to the Criminal Code.”⁸¹ Not only did the RTPC view the bawdy house laws as a convenient loophole around the 1969 Omnibus exclusion, they made the argument that because any place that is habitually resorted to for “acts of indecency” is considered a bawdy house, and because all acts of gay sex were considered indecent, even a private home could be considered a bawdy house. It is important to note that this line of argument was not paranoia or conspiracy theories, but was an argument born out of reality.

As we have seen, in 1979, Don Franco was charged with keeping a common bawdy house in his private home (see Chapter 2).⁸² In September 1981 he was acquitted of the charges; the judge accepted Franco’s lawyers legal submission that the “existence of a common bawdy house cannot be established unless the impugned acts share an incriminating characteristic which removes them from the protection afforded by section 158,” the exclusion clause of gross indecency.⁸³ According to Franco’s defense lawyer Clayton Ruby, the only way Franco could be convicted of operating a common bawdy house out of his own home would be to go beyond the confines of section 158, or, in other words, have more than two people, or if one of the two people were under 21, or if it occurred in public, or if there was no consent involved.⁸⁴ Despite this favourable ruling, the community was nonetheless concerned that the police were utilizing creative means to recriminalize homosexuality. In a flyer distributed by the RTPC

⁸⁰ “2nd Draft for the RTPC Proposal to the Minister of Justice Regarding Bill C-53,” CLGA, RTPC (88-011), Box 2, File 28: Brief to HoC Bill C-53: 1.

⁸¹ Ibid.

⁸² Tom Warner, *Never Going Back: A History of Queer Activism in Canada*, Toronto: University of Toronto Press, 2002: 109-110.

⁸³ “Legal Submissions,” *The Queen v. Franco*, Toronto, June 1981. CLGA, Arnold Bruner (98-050), Box 2, File 17: Legal, 2.

⁸⁴ Interview with Clayton Ruby, November 12, 2015.

prior to the Franco ruling, Toronto queers were warned: “your home is a common bawdy house.”⁸⁵ The RTPC brief to the Committee looking into C-53 specifically called for the repeal of the bawdy house laws, or, “failing that, we request that the words ‘or the practice of acts of indecency’ be removed from section 179 since homosexual sex may still be construed as indecent.”⁸⁶ In other words, they sought to undo the 1917 bawdy house amendment.

The Franco case was not the only instance where the Metropolitan Toronto Police tried to use the bawdy house laws to charge people in their own homes. Another Toronto gay man was charged in November 1980 with keeping a common bawdy house in his own home.⁸⁷ At the time, he rejected help from the small RTPC committee, but like Franco, he later won his case.⁸⁸ In a heterosexual case from March 1981, Judge M.A. Charles acquitted Mervyn Lawrence Mason of being a keeper of a common bawdy house.⁸⁹ Mason, the author of a book entitled *I am for group sex*, was charged with the offense after three undercover police officers attended one of his monthly parties in which, according to the officers, many ‘indecent acts’ took place. The trial judge acquitted Mason because the parties he hosted did not include gay or lesbian sex (there was group sex with a various mix of genders, but not homosexual sex). Judge Charles reasoned that section 158 (gross indecency and the limitation of only two people) did not apply in cases of heterosexual sex, claiming “it is my considered opinion that no one would seriously contend that a sexual act, between consenting adults of the opposite sex, in a private home, could be considered grossly indecent.” Further, “an act of gross indency [sic], as contemplated by the Code, includes an act between homosexuals whether done in private or in public. Section 158

⁸⁵ “Understanding the Issues – A Fact Sheet: Your Home is a Common Bawdy House,” CLGA, *The Body Politic* (1983-009), Box 3, File: Gay Community Leaflets, Bath Raids and Demos, June 13, 1981.

⁸⁶ *2nd Draft for the RTPC Proposal*, 2.

⁸⁷ “Cop answers ad in Advocate, slaps man with bawdy house rap,” *The Body Politic*, February 1981: 16.

⁸⁸ “Minutes of RTPC General Meeting,” CLGA, RTPC (1986-002), Box: 1, File: minutes, January 12, 1981: 2; Ed Jackson, “Judge rules man’s apartment is not a common bawdyhouse,” *The Body Politic*, December 1981: 13.

⁸⁹ *R v. Mason*, [1981] O.J. No. 3263. Also found in: CLGA, Arnold Bruner Files (98-050), Box 2, File 17: Legal.

was designed to protect homosexuals, so long as they performed their acts in private and not in the presence of a third party.”⁹⁰

This judgement proclaimed that homosexual group sex was a criminal act, while group heterosexual sex was perfectly legal and demonstrated why liberationist demanded that such a discriminatory law be removed from the Criminal Code. The judgment is pertinent to my discussion of C-53 for two reasons. First, it made the link between the bawdy house laws and the law against gross indecency. In order for the judge to understand the definition of “indecent act” in the bawdy house law, he utilized the definition as stated in section 157, or, gross indecency. As a result of this, it is possible that the proposed change to gross indecency in C-53 (enabling sex with more than one partner) would have implications for the bawdy house laws. And second, it is a concrete example of the limits to which the law was willing to bend away from heterosexist mononormativity. It was acceptable under the law to break with the norm in terms of gay sex. And it was acceptable under the law to break with the norm of monogamist sex. But it was not acceptable to break both. In this case, group sex and gross indecency are complicated. It begs the question, in an orgy, how many members of each gender does a group require in order for it to be a heterosexual orgy (and thus exempt from being grossly indecent)? Does a group simply require at least one of each gender, or does there need to be a more equitable division of the genders? This case, and these questions, demonstrated how heterosexual hegemony and mononormativity are problematic in the construction, application, and enforcement of criminal law.

Perhaps unaware of this court decision, the idea of group sex and orgies entered the debate among Committee members on the first day it was brought to the Committee by Jean Chrétien in April 1982. Gilles Marceau, the Liberal MP for Jonquière, posed the following question to Chrétien on the change in language of the exclusion clause of gross indecency from ‘any two persons’ to ‘any persons’:

⁹⁰ Ibid, 12-13.

“Are you aware that this tendency to increase the number of individuals who are allowed to perform a variety of acts, is of the type to encourage and facilitate orgies?” Chrétien’s response referenced the answer he gave only a few moments earlier in which he declared, “As a good Christian, I would prefer that they follow divine law. But it is not up to me to make a judgment.”⁹¹ In addition to this, Chrétien went on to explain that he was aware that some Canadians participated in group sex, and that one of the reasons the Criminal Code was amended in 1969 was that what adults do in private is both something the law ought not to reach, but also, is something the law cannot reach because it is more or less unenforceable. This led to a further statement by Chrétien about the nature of criminal law and the necessity of criminal law to be clearly defined, easily understood, and finally, respected by the citizens it governs. Chrétien claimed that it would lead “to a lack of respect for the provisions that we do want to enforce,” and that “if you do not enforce the act in one case, why should you in another?”⁹²

If Marceau was skeptical, Ken Robinson, the Liberal MP for Etobicoke-Lakeshore, took a hostile tone. Robinson (not to be confused with Svend Robinson, NDP MP from Burnaby) pointedly asked Chrétien:

Tell me, Mr Minister, why are you providing for group sex under the gross indecency clause, albeit in private? Is there a demand for this kind of abnormal behaviour? Have any studies been done to determine if this is desirable? Do you have a Gallup poll on it, or is the only thing you have at the present time the Law Reform Commission?⁹³

Chrétien’s response was fairly simple. He indicated that he had no statistics and that the idea behind the change was that in a private room where adults are having sex the state does not usually “look at the size of the room and how many people are in it.”⁹⁴ The exchange continued between the two Liberals, and became outright nasty and blatantly homophobic:

⁹¹ *Justice and Legal Affairs*, No. 77 (April 22, 1982), 43-44.

⁹² *Ibid*, 44.

⁹³ *Ibid*, 52.

⁹⁴ *Ibid*.

Robinson (Etobicoke-Lakeshore): I would like to know from you, Mr. Minister, who is demanding this kind of thing? Is it a group of homosexuals?

Chrétien: It was suggested by the Law Reform Commission in their report four years ago.

Robinson: Maybe that is the group of homosexuals.

Chrétien: Pardon?

Realizing he had crossed the line, Robinson (who was surely aware that what comes through the microphone is recorded by Committee minutes and proceedings) responded, "I will strike that from the record."⁹⁵

After Ken Robinson and Marceau raised the spectre of orgies on the first day in Committee, group sex became a common question to the various groups who submitted briefs to the Committee. In support of replacing "any two persons" with "any persons" in the exception clause of gross indecency were the queer activist groups (the RTPC and the ADGLQ), as well as the various women's organizations. The Canadian Nurses Association also weighed in on the issue stating "when you talk about group sex, it depends, I imagine, on whether or not permission has been granted."⁹⁶ Likewise, the NAC's statement "I do not find the idea of group sex something that we should be trying to regulate," as their primary concern was not morality but, instead, on the integrity of the person and each participants' consent and willingness to participate in the sex act taking place.⁹⁷

The only groups opposed to this change were the various police associations as well as a few of the provincial Attorneys General who submitted briefs to the Committee. The brief submitted by the Canadian Association of Chiefs of Police stated bluntly that the exception clause to gross indecency had "been significantly, and in our view, dangerously altered"⁹⁸ in C-53. Broadening the definition would

⁹⁵ Ibid.

⁹⁶ *Justice and Legal Affairs*, No. 80 (May 4, 1982), 20.

⁹⁷ *Justice and Legal Affairs*, No. 91 (June 1, 1982), 45.

⁹⁸ Canadian Association of Chiefs of Police, "Comments concerning Bill C-53," CLGA (M1994-047-1), March 1981, 9.

lead to the “commercialization of sexual matters”, would have impeded “law enforcement officials from controlling such behaviours,” and would allow for the proliferation of organized crime.⁹⁹ This was repeated at their deputation before the Committee when Chief G. Lafrance stated “once you replace the concept of two persons with an undefined number, you are providing a loophole which organized crime will be glad to take advantage of.”¹⁰⁰ Rod McLeod, the assistant Deputy Attorney General of Ontario echoed this sentiment, arguing that group sex “would give approval to an exploitive commercial sex industry and encourage the opening of such premises for illicit group sexual activities.”¹⁰¹ However, McLeod indicated that in terms of “prosecutorial discretion” he would not view a “ménage a trois” as an act of gross indecency, even with the two person limitation.¹⁰²

Rod McLeod and the Chiefs of Police were not able to provide any evidence of this claim, and if the Mason decision was any indication, the only group this change would affect would have been Canada’s queer community. The association made between bathhouses, prostitution, and organized crime was an attempt to stir a moral panic. Their claim was either entirely imaginary, or, if any evidence existed, was greatly exaggerated. In the February 1981 Toronto bath raids that occurred a year and three months prior to the Chiefs deputation to the Committee, not only were there no convictions related to prostitution or organized crime, but there were no such charges laid on any of the more than 300 men arrested. As sociologists Erich Goode and Nachman Ben-Yehuda argue, when a moral argument is either imagined or disproportionate to the actual threat or harm, it is considered a ‘moral panic.’¹⁰³ When it comes to deviance, the moral panic flows from the fact that people believe that when one deviance is accepted (such as allowing a gay bathhouse), other immoral behaviours will necessarily

⁹⁹ Ibid, 10.

¹⁰⁰ *Justice and Legal Affairs*, No. 81, 17.

¹⁰¹ *Justice and Legal Affairs*, No. 92 (June 2, 1982), 8.

¹⁰² Ibid, 30.

¹⁰³ Erich Goode and Nachman Ben-Yehuda, *Moral Panics: The Social Construction of Deviance*, Oxford: Wiley-Blackwell, 2009: 17.

flow from it (such as prostitution and organized crime), even where there is no evidence of such a causality.¹⁰⁴

The final theme that the Committee discussed in relation to the morality clauses of C-53 dealt extensively with the same issues as group sex: by allowing group sex, C-53 would allow sex in public, or so the argument went. Liberals Jim Peterson, Ken Robinson and Russell MacLellan, alongside Progressive Conservative David Kilgour, pressed the issue of public sex several times, most notably in the deputations with the RTPC and the ADGLQ. In both deputations, these members of the Committee attempted to push the members of those two organizations to start drawing dividing lines between what would constitute private sex versus public sex, all under the guise of trying to outlaw sex where more than two people were present. It is clear that these members of the Committee were convinced that the only appropriate place for Canadians to have sex would have been between two people in a private location where the public has no access, and no third party can view or participate in the sex taking place.¹⁰⁵

One of the tactics they used was to give several scenarios for George Smith of the RTPC and Ron Dayman of the ADGLQ to decide whether the sex scenario was done in a private or public place. A public park, an inter-city bus, a park next to a high school, the Parliament Hill lawn, a street, and a parking lot were all examples that were levied at George Smith and Ron Dayman by these members of the Committee. George Smith (utilizing his extensive knowledge of sociology) had a different view of private/public than the members of the Committee: privacy is all in how it is constructed by the people occupying the space in it. So a private dinner party of a dozen people is constructed as private because everyone who attends was invited and views the space they occupy as private space. The lawn on Parliament Hill, on the other hand, is not being construed as a private space by the people on it, but is

¹⁰⁴ Ibid, 111.

¹⁰⁵ *Justice and Legal Affairs*, No. 79, 22-23.

understood to be public. This was a wise strategy employed by Smith, as he was able to see through the tactic used by the members of the Committee to have him specify that certain spaces where some men tended to have sex (some parks late at night, public washrooms, clothing-optional beaches)¹⁰⁶ were public and thus were violating the Criminal Code. Marcel Pleau of the ADGLQ, while facing similar questioning during their deputation, argued that public or private had to do with two things: the way the participants construed the space, and whether or not the act was open to public view. Since bathhouses were often hidden and out of view, the only way a space like that could be considered public is if the participants, once inside, did not know what they were getting into. Pleau made the argument that as you go into a bathhouse, especially one that charges for a private membership,¹⁰⁷ “you go there knowingly; it is not something you just go into without passing through a teller, for example.”¹⁰⁸

Conclusion: Bathhouses and Group Sex

On June 2, 1982, the RTPC published a full-page ad in the *Globe and Mail* calling for the repeal of Canada’s bawdy house law. The ad was contentious among members of the RTPC, who debated whether to restrict the ad to focus solely on the ‘indecent act’ section of the bawdy house laws, or to call for the repeal of the bawdy house laws in their entirety. Their decision was the latter, opting to view the bath raids as part of a broader problem of police harassment affecting not only the queer community but also those in the sex trade.¹⁰⁹ The ad was a powerful statement from the RTPC and the broader community. It contained hundreds of signatories whose names were published as the backdrop to the ad; it was a remarkable mass coming-out of people, by both queers and allies at a pivotal time in

¹⁰⁶ For more information on the history of policing homosexual sex in public parks and washrooms, see Steven Maynard, “Through a hole in the lavatory wall: homosexual subcultures, police surveillance, and the dialectics of discovery, Toronto, 1890-1930,” *Journal of the History of Sexuality*, Vol. 5, no. 2 (October 1994): 207-242.

¹⁰⁷ *Justice and Legal Affairs*, No. 87, 21.

¹⁰⁸ *Ibid*, 25.

¹⁰⁹ Interview between Tom Hooper and Tim McCaskell, Toronto: September 18, 2012.

the Committee's examination of Bill C-53. It made the claim that the will of Parliament in the 1969 Omnibus Bill was being disregarded, and that the law needed to change.

Yet like Pierre Trudeau, the RTPC misstated the 1969 decriminalization. They made the claim in the ad that "the Criminal Code was amended to decriminalize sexual acts between consenting adults in private."¹¹⁰ But this was not the case. It was not "between consenting adults," it was between "any two persons." Mononormativity was not implicit in the law, it was explicit. This was pointed out by a letter to the editor, who declared that the ad was "of questionable honesty" for not pointing out that the 1969 Omnibus Bill only allowed for two people to be grossly indecent, and no more.¹¹¹ That being said, it seemed clear in early June that C-53 was going to pass and that the liberalization of gross indecency would proceed. With no reason to believe the Liberals were about to backtrack on their proposed liberalization of gross indecency to allow for group sex, the RTPC focused its media campaign on the bawdy house laws.

Jean Chrétien walked into the Committee room on June 15, 1982 with a series of amendments to C-53 that gutted the changes to the morality clauses.¹¹² Svend Robinson, who was as taken by surprise by this turn of events as any other member of the Committee, wasted no time in placing the blame on the Liberal party. He argued that Chrétien had "caved in to the dinosaur wing of the Liberal caucus and ignored key representations from major national women's groups."¹¹³ Robinson and the other members of the Committee had two days to examine the extensive set of changes to C-53, and when they came back on June 17, Robinson was quite tenacious in his questioning of Jean Chrétien. Most revealing, perhaps, is Robinson's question to Chrétien about which groups asked him to remove the changes to the morality clauses, given that most of the groups who participated in Committee

¹¹⁰ "The state has no business in the bedrooms of the nation," *Globe and Mail*, June 2, 1982, 12.

¹¹¹ "Letters to the editor: Right to Privacy", *Globe and Mail*, 9 June 1982: 6.

¹¹² *Justice and Legal Affairs*, No. 97 (June 15, 1982), 29.

¹¹³ *Ibid*, p. 34-35.

deputations were in favour of those changes. Chrétien responded by indicating that it was as a result of “some requests from people, for instance the attorney-generals of the provinces, the chiefs of police, the heads of religious groups, from members [of Parliament]...”¹¹⁴ He also told the Committee that there were several members of the Liberal caucus who were opposed to such changes, as well as staunch opposition from most of the Conservatives.

The Committee already knew of the opposition from the various provincial Attorneys General, as well as from the Chiefs of Police. A letter writing campaign from the Family and Freedom Foundation, a US-based evangelical organization which had a large following in Niagara Falls, Ontario, flooded the government with letters and petitions.¹¹⁵ In spite of this, it is inconsistent that Chrétien would invoke the attitude of religious leaders, given his statement at the start of Committee business on C-53 that in spite of his Christianity, “it is not up to me to make a judgment.”¹¹⁶ The most pressing factor that led to this change in C-53 was the opposition from within the ranks of his own Liberal caucus, and not wanting to lose the opportunity to update Canada’s sexual assault laws and thus score a big win in the eyes of Canada’s women’s movement, Chrétien opted to gut the morality clauses from the bill. C-53 ended up dying and the sexual assault amendments to the Criminal Code were reintroduced and passed as Bill C-127 at a zero-hour marathon session of Parliament prior to the 1982 summer recess. Bill C-53 was declared dead as a result of being “clogged by controversy.”¹¹⁷

The governing Liberals were facing tough economic challenges in 1982, which led to divisions within the party. On June 16, 1982, in the middle of the debate over the changes to C-53, a report in the *Globe and Mail* stated that the Liberal caucus was “badly divided.”¹¹⁸ There seemed to be tension

¹¹⁴ *Justice and Legal Affairs*, No. 98 (June 17, 1982), 14.

¹¹⁵ Kevin Orr, “Morality campaign stops Code changes,” *Body Politic*, July 1982: 10.

¹¹⁶ *Justice and Legal Affairs*, No. 77: 44.

¹¹⁷ “Sexual offence law meets several concerns of today,” *The Leader-Post*, August 10, 1982: A6.

¹¹⁸ “Grits confront Cabinet today over slump,” *Globe and Mail*, June 16, 1982: 1.

between backbench MPs and the Cabinet over how to proceed in navigating the economic situation of the time; as Liberal MPs such as Ken Robinson demonstrated, these tensions also existed when it came to issues of morality and the Criminal Code. It could be that Chrétien backtracked because of internal political pressure within the Liberal party, or it could be that he desired to expedite the sexual assault changes and avoid any controversy with the amendment to gross indecency. Either way, the power of mononormativity prevailed and gross indecency was restricted to acts committed between only two people. Chrétien defended his actions before the Committee adjourned on C-53. On the topic of gross indecency, Chrétien said of the 1969 Omnibus Bill, “there was no desire in 1968 to take [gross indecency] out, and I do not want to take it out at this time.”¹¹⁹

The bawdy house law and its vague definition of indecency still exist in the Criminal Code today. In 1987, buggery and gross indecency were replaced with a new provision against “anal intercourse.”¹²⁰ This law is subject to the 1969 exception clause. However, in the mid-1990s the age limitation of eighteen was rendered unconstitutional by courts in Quebec and Ontario on the basis that it violates the Charter as a result of discrimination on age and sexual orientation.¹²¹ Still, in 2016, section 159 codifies mononormativity and maintains the legacy of buggery and gross indecency, as anal sex is legal in Canada only if it is “engaged in, in private, between ... any two persons”.¹²² George Smith and Graham Crawford had presented their case before Parliament, but ultimately failed to achieve legislative reform of gross indecency or the bawdy house law. For the RTPC, the real success was in the courts.

¹¹⁹ *Justice and Legal Affairs*, No. 98, 13.

¹²⁰ Constance Backhouse, “Act of Gross Indecency,” [online] http://www.constancebackhouse.ca/fileadmin/website/gr_indec.htm

¹²¹ *R. v. C.M.* [1995] O.J. No. 1432; *R. v. Roy* [1998] 161 DLR (4th) 148.

¹²² Criminal Code (R.S.C., 1985, c. C-46).

Chapter 5 – Community Service: The Right to Privacy Foundation and Gay Court Watch

Beginning in December 1978, the Right to Privacy Committee attempted to create social, political and legal change. They submitted briefings and reports to the Metropolitan Toronto Board of Commissioners of Police. They sought alliance with local politicians, community leaders, and visible minority groups. They protested in the streets, at Queen’s Park, at City Hall, and they conducted a sit-in at Attorney General Roy McMurtry’s office. Finally, they sent a delegation to Ottawa in an attempt to amend the Criminal Code. In each case, the RTPC leaders who embarked on these campaigns were met with hostility, homophobia, and obfuscation by government officials. They were often stymied by internal conflict and the “politics of distraction.” The RTPC was reinvigorated by community participation after the Operation Soap raids on February 5, 1981. In spite of these massive street demonstrations, the only political victory that could be claimed in 1981 was the publication of the Bruner Report, which declared that the gay community was legitimate. Otherwise, activists and community leaders were stonewalled: the police refused to recognize the gay community, the Ontario Government refused to add sexual orientation to the Ontario Human Rights Code, McMurtry refused to call a provincial inquiry into the raids, and the federal Liberals backtracked on a plan to liberalize gross indecency.

The Courts, however, were an entirely different story. The enduring legacy of the RTPC is the resounding legal victory in coordinating the legal defense of the found-in trials, which occurred primarily in winter 1982. According to Tim McCaskell, “the action shifted to the courts.”¹ Individuals such as Dennis Findlay, who had no legal training, and who only joined the RTPC after Operation Soap, successfully resisted the police in the courtroom. These volunteers recruited lawyers, they raised funds,

¹ Tim McCaskell, *Queer Progress: From Homophobia to Homonationalism*, Toronto: Between the Lines, 2016: 164.

and they patiently observed and took notes during the trials. These volunteers ultimately formed two institutions attached to the RTPC: The Right to Privacy Foundation, and Gay Court Watch.

The legal system has an historical connection to moral regulation and social activism. According to Brenda Cossman and Shannon Bell, the *Hicklin* test, a judicial precedent defining the term “obscenity,” established “a public morality that was based on the Victorian discourse of sexuality as a dangerous force to be controlled and repressed.”² The *Hicklin* test, which defined obscenity as anything corrupting the morals of women, children, and the uneducated working-class, was combined with vagrancy laws and bawdy house legislation to entrench sexual morality into criminal law. In Chapter 4, I reviewed how the concept of decency relates to the Victorian ideal of heteronormativity, and within that, mononormativity. The law, and the Criminal Code, however, are only part of this story. According to Marcel Martel, police forces and the judicial system underwent expansion during the Industrial Revolution of the late nineteenth century, and “these institutions now became the means to enforce a moral order.”³ This moral order has had a lasting impression, as it was used to socially control the behaviour of queers throughout the twentieth century. Gary Kinsman argued that the creation of indecency laws enabled the police to play “an important role in holding dominant gender, class, and sexual relations in place.”⁴ Martel labelled judges, police officers, civil servants, and social workers as “agents of social control,” and although they all work within the state apparatus, they are often in conflict with one another. These agents have been influenced by “factors such as class, gender, age, ethnicity,”⁵ and in the case of gay men at a bathhouse: sexual orientation. Police sergeants, duty officers, Crown attorneys, and judges approached the bath raid cases in often conflicting ways, but all

² Brenda Cossman and Shannon Bell, “Introduction,” in Lise Gotell and Becki L. Ross, eds., *Bad Attitudes on Trial: Pornography, Feminism, and the Butler Decision*, Toronto: University of Toronto Press, 1997: 12.

³ Marcel Martel, *Canada the Good: A Short History of Vice Since 1500*, Waterloo: Wilfred Laurier University Press, 2014: 5.

⁴ Gary Kinsman, *The Regulation of Desire: Homo and Hetero Sexualities*, Rev. ed., Montreal: Black Rose Books, 1996: 64.

⁵ Martel, *Canada the Good*, 6.

within the realm of appropriate Victorian sexuality. Steven Maynard's Foucauldian examination of police agents and judges supports this analysis.⁶

In addition to Martel's concept of "agents of social control," this story also contains the resisters of social control. Much like the state agents, the resisters within the RTPC were also often in conflict with one another. The pre-February 1981 incarnation of the RTPC had little control over legal coordination or strategy, and this only exacerbated the existing tensions within the broader gay and lesbian community. In addition, the leadership of John Alan Lee was perceived as radical by some, and distracted from the core issues of the Committee by others. This chapter contributes to our understanding of the internal workings of social movement organizations. According to Lisa Young and Joanna Everitt, an advocacy group's legitimacy is heavily based on "internal democracy and inclusiveness."⁷ The RTPC's success depended on a reinvention in the wake of Operation Soap, which favoured an open organization dedicated to the defense of found-ins. The mobilization of the community after Operation Soap enabled new resisters to join the movement. This included a baker (Findlay), academics (David Rayside), lawyers (Rebecca Shamai, Dianne Martin, Clayton Ruby, Barbara Hall, Jack Gemmell, Charles Campbell), artists (Andy Fabo), and countless others. These individuals, many of whom I had the opportunity to interview for this study, successfully resisted the police and the Crown attorneys in the courtroom.

The study of court cases has been useful for historians of social movements. Canadian human rights historian James W. St. G. Walker revealed that "judicial decisions can provide a fruitful research resource for the social history of Canada, especially for those groups or issues which are

⁶ Steven Maynard, "Through a Hole in the Lavatory Wall: Homosexual Subcultures, Police Surveillance, and the Dialectics of Discovery, Toronto, 1890-1930," *Journal of the History of Sexuality*, vol. 5, no. 4 (1994).

⁷ Lisa Young and Joanna Everitt, *Advocacy Groups*, Vancouver: UBC Press, 2004: 45.

underrepresented in the more standard sources.”⁸ The voices of found-ins, or of men arrested in a public park, are clearly represented in these court cases. The study of court cases by historians is also useful in contributing to scholarly debate. US historian Marc Stein argued that “leading historians of the sexual revolution appear unfamiliar with the arguments of legal studies scholars ... in turn, most legal studies scholars and political scientists who have worked on this subject have not favored the archival research methods and interpretive strategies commonly used by historians.”⁹ This chapter is inspired by the “microhistorical”¹⁰ method used by Stein in his analysis of the Mattachine Society’s decision to support “court-based strategies” in taking up the immigration law defense of Clive Michael Boutilier in the mid-1960s.¹¹ This story of the RTPC not only informs the lasting legacy of the organization, it also helps us to view the court as a space of political resistance.

As we have seen in Chapter 3, George Smith reorganized the RTPC so that it focussed on two goals: changing the Criminal Code, and providing service to the community in a way that promoted the overall political goal. Gay Court Watch, for example, served the community by providing legal resources for anyone charged under indecency sections of the Criminal Code for having consensual sex. Another affiliate organization, Gay Street Patrol, was formed to provide an active presence on the streets as a service-based protest regarding the lack of police protection for the community after Operation Soap. This chapter is devoted to the legal and institutional history of the RTPC. While Smith stepped down as RTPC Chair in 1982, the institutions created as a result of his vision endured. The RTPC was in a position to be a voice for the community during the early AIDS crisis, and during the 1986 legislative change in Bill 7, which added sexual orientation to the Ontario Human Rights Code.

⁸ James W. St. G. Walker, *“Race,” Rights and the Law in the Supreme Court of Canada: Historical Case Studies*, Waterloo: Wilfred Laurier University Press, 1997: 7.

⁹ Marc Stein, *Sexual Injustice: Supreme Court Decisions from Griswold to Roe*, Chapel Hill: University of North Carolina Press, 2010: 15.

¹⁰ *Ibid*, 97.

¹¹ *Ibid*, 143.

“A Skirmish in a Long Struggle” – The Barracks Trial

The RTPC’s first foray into courtroom politics began with the trial against the “keepers”, stemming from the initial bathhouse raid on the Barracks in December 1978. The newly formed December 9 Defence Fund immediately began raising money for the legal challenge, the costs of which were estimated at \$75,000; by mid-February, they had raised \$10,000. It was decided, in these early months of the RTPC’s existence, that an equal proportion of funds raised would go toward the defence of the keepers and to the found-ins. This move was met with some suspicion within the more radical elements of the community, who were growing increasingly weary of the continuous focus on the trials by the owners, and not the fate of the found-ins. Although there were seventeen found-ins and only five keepers, the decision to ensure funding for the keeper trial was made because the results would impact the found-in trials: if the keepers were found not guilty, the found-ins would likely be found not guilty as well.¹² Although this made legal sense, the perceived focus of resources on the keepers’ trial left many found-ins and other community activists out of the process. The RTPC struggled with this issue until Operation Soap on February 5, 1981, in which the Committee was restructured with a new focus on coordinating the legal defence of found-ins. Prior to this, however, as we saw in Chapter 2, the RTPC’s political activities of reforming the police, and its accompanying fundraising efforts, were separated from the coordination of the legal defense. There was a perception among many RTPC members that the keepers’ lawyer, Morris Manning was more devoted to his professional duties than to the political cause. Until after Operation Soap, he was generally uninterested in interacting with an audience beyond his clients and the courtroom.¹³

The focus on the keepers, and thus, on the business owners, exacerbated tensions within the community. Catherine Nash argued that “in its defense of the Barracks, the RTPC developed arguments

¹² Robin Hardy, “Barracks defence goes full steam ahead,” *The Body Politic*, March 1979: 15.

¹³ Manning became more politically outspoken after Operation Soap.

that conceptualized the importance of gay commercial spaces to gay identity, politics, and social life.”¹⁴ This focus on the defense of the bathhouses as legitimate commercial businesses highlighted an existing divide within the Toronto gay community between liberationist activists, and moderate gay business owners and their allies.¹⁵ According to Kinsman, “the Right to Privacy Committee was able to draw on the valuable skills of professionals, but in such a way that these professionals were held accountable to a broad-based community organization made up of mostly working-class and street gays.”¹⁶ However, this does not describe the RTPC prior to February 1981. The divisions within the RTPC during this time led to confusion. Many in the community had no idea about the legal concepts of “found-ins”, “keepers,” or “bawdy-houses.”

There are important distinctions between a “keeper” case and a “found-in” case. According to section 193 of the Criminal Code, “every one who keeps a common bawdy house is guilty of an indictable offence and is liable to imprisonment for two years.”¹⁷ According to section 179, someone who “keeps” a common bawdy house is someone who owns or operates a business that includes prostitution or acts of indecency. A found-in, however, is someone who “is found, without lawful excuse, in a common bawdy house.” Instead of being an indictable offence, found-ins are “punishable on summary conviction.” Because the keeper charge was an indictable offence, and the found-in charge a summary conviction, the more serious indictable offence was given courtroom priority.

The trial of the five keepers (owner and gay candidate for municipal election George Hislop, owners Jerry Levy and Rick Stenhouse, and employees Andy Fabo and Paul Gaudet) began on November 19, 1979, just over eleven months after the raid. The case was heard before Justice Harold A. Rice at

¹⁴ Catherine Nash, “Consuming Sexual Liberation: Gay Business, Politics, and Toronto’s Barracks Bathhouse Raids,” *Journal of Canadian Studies*, 48:1 (2014): 97.

¹⁵ *Ibid*, 94.

¹⁶ Kinsman, *The Regulation of Desire*, 299.

¹⁷ Criminal Code of Canada, S.C. 1953-54, c. 51.

courtroom 42 at Old City Hall. Representing the Crown was attorney Paul Culver, and the bath owners retained Manning as defence counsel. The owners offered to cover the legal costs for Fabo and Gaudet, but Gaudet opted to retain his own counsel. In spite of the criticisms launched at the RTPC by liberationists during its first few months (see Chapter 2), it became clear on their first day in court that the keepers defence was going to challenge the law head-on: the *Body Politic* urged the community to support the Barracks defence, and were encouraged by the fact that Manning was intent on bringing down the country's bawdy house law.¹⁸ Manning's legal strategy was to make several technical, legal and constitutional challenges that would take their case to the Supreme Court of Canada. Everything hinged on the keepers' trial, as the found-ins were awaiting the more serious keepers case to proceed.

There were four main points of law that Manning used to challenge the charges laid against the keepers. First, he argued that because the keeper charge was an indictable offence, the provincial court, presided over by Judge Rice, did not have proper jurisdiction to hear the case, which ought to have been tried in a superior, county or district court where the judge was appointed by the Federal government. The difficulty with this line of argument is that even if he convinced an appellate court that this was true, it is likely a new trial would have been ordered in the appropriate jurisdiction. This maneuver would have provided a different trial judge and served merely as a delay. Had the court ruled in his favour, subsequent bawdy house cases would have become more difficult to prosecute. His second line of attack was a similar jurisdictional argument. Because the bawdy house law dealt with matters that were not criminal offences (at the time, they believed indecency was not an offence as a result of Trudeau's 1969 partial decriminalization, and prostitution itself was never a crime), the

¹⁸ "A long road ahead," *The Body Politic*, January 1980: 8.

regulation of bawdy houses thus fell to the provinces' right to regulate property, not the Federal Government's Criminal Code.¹⁹

Third, he argued that the indecency section of the bawdy house law was too vague and thus violated the British common law principle of the rule of law. As a cornerstone of the liberal order, the *Rule of Law* limits the power of those with authority by ensuring that the law is clearly defined and equally applied. The crime of "indecency" relied on a judge to determine a community standard of decency; the judge then had to measure the alleged criminal actions to that test. This highly subjective and arbitrary determination of a criminal act was exactly the kind abuse of power the *Rule of Law* was designed to prevent.

Finally, Manning argued that the trial should be held by jury. Violations of the bawdy house law were not considered to be indictable offences; instead, these charges were subject to summary trials. Unlike indictable offences, summary trials do not guarantee a right to trial by jury. And yet, as Manning argued, because the "keeper" offence carried a maximum punishment of two years in prison, there was a common law right to a trial by jury. Manning also argued that the determination of 'indecency' was subject to a community standard, which would best be reflected by a jury rather than a judge.

Manning exhausted all possible arguments in his attempt at articulating these constitutional points of law. Justice Rice listened to Manning's long-winded monologue in legalese, and dismissed it, ordering the trial to proceed on January 28, 1980.²⁰ Rice wrote in his decision that Parliament had the authority to determine the right to trial by jury, stating, "it should also be observed that there is in British Constitutional Law a principle, more fundamental than the right to trial by jury, and that is the

¹⁹ This legal summary can be found: Brian Mossop and Paul Trollope, "In the matter of the Barracks," *The Body Politic*, January 1980: 10; "Lawyer to ask Supreme Court to block Barracks trial," *Globe and Mail*, January 5, 1980: 5.

²⁰ Paul Trollope, "Judge denies right to jury trial, Barracks defendants appeal," *The Body Politic*, February 1980: 15.

supremacy of Parliament.”²¹ However, this was further delayed because Manning appealed Rice’s decision to the Supreme Court of Ontario. In his decision dismissing the appeal on April 8, Justice Donald Steele rejected all of Manning’s arguments of constitutional law. The jurisdictional matter had been settled by a case in the 1950s.²² Similarly, the idea that bawdy houses were a matter of property rights and thus not under the purview of the Criminal Code had been decided in the 1920s.²³ A vital part of Judge Steele’s decision was his declaration that the indecency section of the bawdy house law was not “void due to vagueness.” In spite of there being no real description for Code provisions such as gross indecency or obscenity, in Steele’s opinion, “it is a matter to be determined at trial whether the facts conform to the offence.” His decision acknowledged that, “over the years public standards change and therefore what might have been deemed to be obscene or indecent one hundred years ago no longer is obscene or indecent, or, conversely, what is obscene or indecent today may not have been obscene or indecent one hundred years ago.”²⁴

Manning’s final constitutional argument, that the ‘keeper’ offence warranted a trial by jury because the penalty was two years in prison, also failed at the Ontario Supreme Court. Justice Steele used a 1970 Ontario Supreme Court decision to deny that the Canadian Bill of Rights included a right to trial by jury,²⁵ and he rebuked the claim from a common law perspective:

I am of the opinion that in England historically the right to trial by jury was granted from time to time and taken away from time to time and that even if, in

²¹ *R. v. Hislop*, [1980] O.J. No. 3071. January 4, 1980.

²² *R v. McDonald*, [1958] 27 C.R. 321.

²³ *Bedard v. Dawson*, [1923] S.C.R. 681.

²⁴ *R. v. Hislop*, [1980] O.J. No. 799, April 8, 1980.

²⁵ In *R. v. Nevin*, [1970] O.J. No. 751, Manning represented Michael Peter Nevin, who was on trial for assaulting a police officer. In that case, Justice J. Addy argued in his judgment that the “due process of law” provision of the Canadian Bill of Rights did not imply a right to trial by jury. Addy concluded that, “trial by jury, although for many centuries in our laws (some trace its existence back beyond the Magna Carta) has always been and will always remain fundamentally a matter of procedure as opposed to a matter of substantive law.” It is also worth noting that while in the United States there exists a right to trial by jury within the constitution, the same did not apply to Canada. The *Charter of Rights and Freedoms* contains a right to trial by jury in section 11(f), however this only applies to offences where the punishment is for five years in prison or more.

1867, there was a right to trial by jury for an indictable offence bearing a penalty of two years, such was a statutory right and not a constitutional right.²⁶

That all of Justice Steele's judicial opinions were upheld by higher courts caused frustration for the RTPC and Toronto's queer community. Manning brought his case before the Ontario Court of Appeal, in which the three judge panel legally endorsed Justice Steele's reading of case law.²⁷ That decision was considered "abrupt" by *Body Politic* contributor Paul Trollope, who reported that the judges took less than an hour to deliberate.²⁸ Finally, on November 17, Manning's leave to appeal to the Supreme Court of Canada was refused; the men accused of keeping and being found-in a common bawdy house were forced to proceed to trial, although this would not take place until over a month after the 1981 bathhouse raids.²⁹ The Metropolitan Toronto Police significantly increased bathhouse surveillance in the weeks following Justice Steele's decision. PC James and other members of his unit visited the Romans bathhouse six times in September 1980, which was the most active month for police evidence-gathering ahead of the Operation Soap raids.³⁰ This, combined with political, internal, and financial turmoil, meant that 1980 was the most frustrating year in the history of the RTPC. The legal reality in which the focus was on the fate of the business owners, and not on the found-ins, only further complicated the strained relationship between community activists and business interests.

By June 1980, control over fundraising and the disbursement of funds for the keeper case had been removed from the RTPC in a controversial divorce between the keepers and the Committee. In a letter to John Alan Lee, Peter Maloney stated that although the \$10,800 in funds raised by the bathhouse owners could "form part of the calculation of funds raised" for the RTPC, in actual fact "none

²⁶ *R. v. Hislop*, [1980] O.J. No. 799, April 8, 1980; Paul Trollope, "Judge says no to trial by jury for keepers in Barracks case," *The Body Politic*, May 1980: 13.

²⁷ *R. v. Hislop*, [1980] O.J. No. 1283, September 8, 1980.

²⁸ Paul Trollope, "Bid for jury trial is lost again as court denies Barracks appeal," *The Body Politic*, October, 1980: 11; "Bawdy charges over Barracks are ruled constitutionally valid," *Globe and Mail*, September 9, 1980: 18.

²⁹ David Garmaise and Paul Trollope, "Supreme Court kills appeal bid Barracks case to go to trial soon," *The Body Politic*, December 1980: 19; "Toronto men lose bid for jury trial," *Globe and Mail*, November 18, 1980: 8.

³⁰ "Evidence Observations made by PC James," CLGA, RTPC (88-011), Box 3, File: 41 – Court Transcripts.

of the funds committed would flow to the RTPC or the trustee [John Higgins].”³¹ This separation between the Barracks bath owners and the RTPC was a result of a backlash from the owners after the May 1980 RTPC policy conference, in which, as we saw in Chapter 2, the perceived “tilt of group toward radical gay politics” was a growing concern to the more moderate liberals on the Committee.³² When the RTPC voted to make Criminal Code reform the top priority, the group was split along ideological lines. The radicals wanted broad reform, the legalists wanted to restrict the group’s activities to police reform and legal fundraising. When the legalists lost the vote, they worked to ensure their constitutional challenge in the Barracks case would go unhindered. Meanwhile, the apparent lack of focus within the RTPC led to a significant drop in fundraising. In a letter to Manning, Lee apologized for the fact that “the committee has not been able to raise funds at the rate we had hoped ... there have been more of the usual problems which beset all volunteer groups.”³³ Lee continued to apologize on behalf of the RTPC for the various fundraising failures, and he placed a great deal of faith in the (failed) *Advocate* Ad debacle that led to his ouster in 1981.

Lee and his supporters in the RTPC widened the scope of the group, while at the same time they centralized the Committee, making it less participatory. At the May 1980 RTPC policy conference, the legalists argued for a narrow RTPC focus on legal coordination, but they lost to the radicals who felt the priority was Criminal Code reform. After Maloney resigned from his position on the RTPC, there were no volunteers to replace him. As a result, this task was left to Lee. Immediately following his appointment as the Chair and as taking Maloney’s position in charge of Political Action, he suggested that the RTPC abolish General Meetings. Lee’s argument was that the summer was approaching and coordinating general meetings was a “duplication of efforts.”³⁴ This was not the first time the RTPC

³¹ Letter from Peter Maloney to John Alan Lee, CLGA, RTPC, (1984-002), Box: 1, File: Correspondence, June 2, 1980.

³² Summary of discussion at the RTPC policy conference, CLGA, RTPC, (1984-002), Box: 1, File: General 2, May 4, 1980.

³³ Letter from John Alan Lee to Morris Manning, CLGA, RTPC (1984-002), Box: 1, File: 7, May 27, 1980.

³⁴ Minutes of General Meeting, CLGA, RTPC, (1986-002), Box: 1, File: Minutes, May 12, 1980: 5.

under Lee's leadership constricted the participatory nature of the group. In October, 1979, following Lee's election as Chairperson, the group passed a series of motions aimed at reorganizing the Committee. One stated that the Committee's "process of democratic accountability" would lead to "the possible inefficiency ... of spending too much time on consultation prior to action."³⁵ Such an approach enabled the group to efficiently accomplish a short list of minor wins for the community. In a letter to supporters in January 1981, Lee listed several successes of his centralized RTPC in 1980. Among them were noble causes that resonated with many in the community (lobbying of police to alter Hallowe'en activities at the St. Charles Tavern, and to stop washroom entrapment at the Parkside), but none of his accomplishments listed anything to do with the *raison d'être* of the RTPC: to coordinate the legal defence of those charged in morality-based sex raids.

This shift in focus impeded the Committee's ability to coordinate legal action. The keepers, represented in court by Manning, did not maintain consistent communication with the rest of the group. This was because of the divorce of the keepers from the RTPC as well as the complex nature of Manning's constitutional arguments. As a result, the Barracks found-ins were in the precarious position of anxiously awaiting a trial that was in perpetual delay. This fact was too much for five of the seventeen found-ins, who broke solidarity by pleading guilty to their charges in March 1980.³⁶ One of the early mandates of the RTPC was to reach out to all of those charged in order to coordinate a broader legal strategy of resistance. For instance, in October 1979, when Maloney was more active in the RTPC, he drafted a letter to those charged in the Hot Tub Club raids, urging them to plead not-guilty and to contact the RTPC for legal assistance and coordination;³⁷ efforts such as this disappear from the RTPC files in 1980. After the RTPC reinvented itself in February 1981, legal coordination once again became

³⁵ "List of motions," CLGA, RTPC (1984-002), Box: 1, File: 6, October 11, 1979.

³⁶ "Five plead guilty in Barracks case," *The Body Politic*, April 1980: 13.

³⁷ Letter from Peter Maloney to Found-In, CLGA, RTPC (1984-002), Box: 1, File: Correspondence, October 25, 1979.

the focal point of the Committee's activities. It was less than two months after Operation Soap that the 1978 Barracks case finally saw a trial. The November 1980 decision by the Supreme Court of Canada to deny Manning's appeals paved the way for a March 1981 trial date, back in the courtroom of Justice Rice.

The prosecution (led by attorney Paul Culver) was fixated on indecency during the trial. Such a focus worked well for the city's media, as sexualized headlines helped sell copies of Toronto's major daily newspapers. According to the *Globe and Mail*, on March 31, one of the Crown's key police witnesses testified that after paying a \$10 membership fee, and a \$6 room fee, he saw men "laying on beds by themselves, masturbating as passersby walked along. Some were naked, some partly dressed, some in leather vests or jockstraps." The Crown also believed it was pertinent to the case to establish that the investigating officers, "heard background noises of slapping, grunts and groans" as they walked the corridors.³⁸ Similarly, the *Toronto Sun* reported that investigating officers heard sounds of whipping and slapping in the otherwise "very quiet" bathhouse. There was also testimony of a morality squad officer who, after revealing himself as a police officer, demanded that the front door attendant remove a sign created by a Barracks patron advertising a "six-inch penis."³⁹ The *Toronto Star* was by far the most graphic of the three major daily newspapers in Toronto. In their reporting of the trial, the *Star* revealed that in the downstairs of the Barracks, two rooms were linked "by a two-way mirror," and that "waist-high holes were found in the walls between other rooms."⁴⁰ According to the *Body Politic*, the strategy employed by Culver was to aim "over the judge's head and directly at the media," as the prosecution brought stacks of evidence boxes into the courtroom. The evidence included magazines, photographs, sex toys, various articles of leather garments, whips, chains, belts, paddles, dog collars,

³⁸ Margaret Mironowicz, "Saw men engaging in sex at club, policeman testifies," *Globe and Mail*, April 1, 1981: 5.

³⁹ "Sound of whip in Barracks, cop says," *Toronto Sun*, April 8, 1981: 46.

⁴⁰ A room with a two-way mirror allowed voyeurs to watch exhibitionists have sex without interruption. The "waist-high holes" found along the walls are colloquially referred to as "glory holes," and they are utilized to facilitate anonymous oral/anal sex. "Fake mirrors in Barracks," *Toronto Star*, April 3, 1981: A14.

handcuffs, harnesses, and even a cricket bat.⁴¹ Culver called an expert witness to review the “indecent” sexual items on display at trial. Corporal Mace Armstrong, who was the head of “Project P,” a special police unit which investigated materials related to obscenity, testified that “although he’s never seen the items ‘in actual practice,’ after five years on the job reading sex magazines and watching films, he considered his expertise ‘second to none.’”⁴² Much to the dismay of the prosecution, Manning countered this by arguing that the items found in evidence, including “a can of shortening,”⁴³ were readily available at major downtown Toronto department stores, including “Eaton’s and Simpsons.”⁴⁴ Manning was attempting to question the implied “indecent” of the items, highlighting the fact that “indecent” was too vague to be considered by law.

Although indecent was the primary focus, this did not prevent the prosecution from bringing forth other evidence designed to cast the Barracks in a negative, threatening light. On April 3, the Barracks trial heard from Metropolitan Toronto Police Sergeant Leo Van Der Groef, who testified that he felt uncomfortable and threatened because his only attire was a towel. Van Der Groef stated on the witness stand: “I felt uncomfortable because I feared I might be sexually attacked ... the towel was barely knotted around my waist.”⁴⁵ In the *Toronto Sun*, it was reported that one undercover officer “was occasionally grabbed in the groin,” but during his testimony he also added that “he was never forced to have sex.”⁴⁶ When interviewed, PC Matthews was clear that he never witnessed any instance of sexual assault, coercion, or sex work in the club. Police agencies attempted to create a moral panic

⁴¹ Gerald Hannon et al., “Barracks trial shines the cold light of the law on erotic play,” *Body Politic*, May 1981: 8.

⁴² “Cop tells trial about seized sex toys,” *Toronto Sun*, April 9, 1981: 59; “Whips seized by police in steam bath raid, trial told,” *Toronto Star*, April 9, 1981: G7.

⁴³ The “can of shortening” story emerged several times throughout the research period of this dissertation. It was mentioned in interviews with Dennis Findlay, Peter Maloney, Tim McCaskell, Andy Fabo, and in my anonymous interview with PC Matthews, the police officer who went undercover on the Barracks in 1978. None ever recall ever seeing it used, but everyone recalls the stories (lore) surrounding it.

⁴⁴ “Big stores sell sex aids, trial told,” *Toronto Star*, April 10, 1981: C21.

⁴⁵ Farrell Crook, “Officer clad in towel feared sexual attack at Barracks, trial told,” *Toronto Star*, April 4, 1981: A19.

⁴⁶ “Cop describes bathhouse sex,” *Toronto Sun*, April 1, 1981: 62.

over the issue of prostitution in gay bathhouses, despite the fact that none of those arrested in the various bath raids from 1978-1983 was charged with prostitution (see Chapter 4). The prosecution's use of Van Der Groef's testimony was designed to cast the Barracks as not only indecent to public morality, but also a threat to personal security and safety. However, it was not "indecent" or false rumours of assault that ultimately decided the case: it was the fact that the Barracks allowed more than two people to have sex together that ultimately decided the case.

Group sex was common in the gay baths that existed in Toronto in the 1970s and early 1980s, but the Barracks in particular had a reputation for facilitating this activity. When John Alan Lee resigned from the RTPC the day before Operation Soap, he wrote a scathing letter to Rick Stenhouse (part-owner of the Barracks and one of the five charged with being a keeper) admonishing him for suggesting that the RTPC pay RLS Management back for the failed *Advocate* ad. In that letter, Lee revealed to Stenhouse the reason why the RTPC was having difficulty raising funds and gaining cooperation from the other bathhouses: The Barracks allowed group sex. Lee wrote:

I find very considerable resistance, as might be expected, from Bob Taylor at the Roman, but Brian Rhodes at the Richmond St. baths was at first quite supportive. However, his lengthy conversation with me was a damning report of management decisions at the Barracks (re group sex etc.) which he feels are asking for more trouble from the police.⁴⁷

The Barrack's penchant for group sex was consistently part of the evidence presented by Culver and the prosecution. One of the investigating officers testified that "he saw two men engaged in a sexual act in one of the Barracks' 23 rooms while a third man was whipping one of them on the buttocks with a knotted leather thong."⁴⁸ In Culver's closing arguments, he stated that the Barracks "was a bathhouse without a bath," and that "the sole purpose for the setup was the practice of acts of indecency." But in spite of the legal wrangling over what was considered a "community standard of

⁴⁷ Letter from John Alan Lee to Rick Stenhouse, CLGA, RTPC (88-011), Box: 2, File: 10, February 4, 1981: 2.

⁴⁸ Farrell Crook, "Saw sex acts at Barracks club officer tells trial," *Toronto Star*, April 1, 1981: A22.

indecentry,” Culver rested his case on the fact that investigating officers “observed such activity as three men engaging in fellatio and masturbation while two other men watched.”⁴⁹ In declaring the Barracks a “sex supermarket,” Culver was clear on the point that officers had observed “up to six adults engaged in sexual activity in some of the rooms.” While Culver maintained that “homosexuality should not be an issue in the case,” and that “the gender of the participants is totally irrelevant in acts of indecentry,”⁵⁰ we know from other cases of group sex in Toronto in the early 1980s, judges considered gender as a key factor in determining the indecentry of an orgy. As we saw in Chapter 4, in the case of *R. v. Mason* a Toronto judge declared that “it is my task to decide whether persons who engaged in a heterosexual relationship, whether in groups or not, in the privacy of a private home, are guilty of indecent acts.”⁵¹ In acquitting Mervyn Lawrence Mason, the judge declared that group sex was considered legal provided the participants were heterosexual. Judge Rice, in the Barracks keeper trial, did not have a similar view with regard to homosexual sex.

In Judge Rice’s decision, delivered on June 12th, 1981, two of the five men accused in the Barracks trial were convicted of keeping a common bawdy house. The other three defendants, owners Jerry Levy, Rick Stenhouse, and George Hislop, were acquitted of the charges. The two convictions were against Barracks employees Andy Fabo and Paul Gaudet, who were working as attendants on the night of the 1978 raid. Judge Rice was convinced that the Barracks was a common bawdy house based on the evidence presented by investigating officers. While the boxes of indecent material were considered in his judgement, Rice relied most heavily on the conclusion that “the incidents of buggery, fellatio and masturbation described within this case, are not within the community standards as defined by the Code.” Ordinarily, these acts are protected by Trudeau’s 1969 reforms, which provided for an exception

⁴⁹ Vianney Carriere, “Bathhouse was built specifically for sex, bawdy-house trial told,” *Globe and Mail*, May 6, 1981: 5; “Indecency not defined in law Barracks’ trial judge told,” *Toronto Star*, May 5, 1981: A23.

⁵⁰ Heather Bird, “Club was ‘sex supermarket’: 5 on Bawdy House Charges,” *Toronto Sun*, May 6, 1981: 42.

⁵¹ *R v. Mason*, [1981] O.J. No. 3263.

to these prohibited acts. However, since “patrons openly participated in sexual acts with the knowledge that they were being watched and with the hope and expectation that others would join,”⁵² the 1969 reform did not apply. This case rested on the fact that these indecent acts involved more than two people, and thus they were not afforded the protection of Trudeau’s Criminal Code amendment.

The acquittal of the business owners and the conviction of the two employees were both shocking and outrageous to members of the gay community. Rice decided that given the obvious nature of the business and the acts taking place on the premises, “anyone performing the job of attendant would have knowledge of the acts ... [they] would have some control of the acts of indecency which occurred on the premises.”⁵³ The owners, however, were acquitted on the basis that they were not actively assisting customers in committing their indecent acts. According to Rice: “although the three accused, Hislop, Stenhouse and Levy, had knowledge of the activities going on in the premises as officers of the corporation, the court is unable to find what act or participation they took in assisting those acts of indecency.”⁵⁴ In Rice’s judgment, Barracks employee Andy Fabo, who collected a room fee and provided entrance to found-ins, was more directly linked to indecency than the owners, who were responsible for building a space complete with glory holes, slings, and a room called “the Orgy Room.”

Fabo still remembers many of the activists, friends, and his co-accused with great admiration, yet he expresses disdain for the personality conflicts that plagued gay organizing. Fabo grew up in Calgary, where in the early 1970s he gained popularity in the city’s small art scene. He fully discovered his bisexuality while in Paris, before returning to the Alberta College of Art. He volunteered for a Calgary gay helpline, called “Does Your Mother Know,” which was similar to the helplines that existed in Toronto at the time. Fabo was attracted to Toronto because of the emerging art community and for its

⁵² Paul Palango, “2 of 5 convicted in Barracks case,” *Globe and Mail*, June 13, 1981: 5.

⁵³ Farrell Crook, “Hislop, two others cleared, two guilty in Barracks case,” *Toronto Star*, June 12, 1981: A4.

⁵⁴ *Ibid.*

inexpensive rent, so he made the move and began working at the Barracks and Club Baths in 1975 as an attendant. The clients at the Barracks enjoyed kink, but they were also generally more intellectual and were thus interesting to commiserate with as opposed to the clients found at the Club Baths, which had a reputation for drugs and sex work. Many of the patrons of the Barracks were regulars, and many knew Fabo on a first-name basis. Since the Barracks was a smaller venue, and employed only one or two attendants at a time, the community-minded nature of the place meant a patient and gracious clientele.

Fabo remembered that on the night of the raid a small group of rowdy, impatient men entered the Barracks demanding to be let in. The door was secured behind an electronic lock, but as Fabo was asking the “group of frat boys on a party” to pay their fee first, a patron left the Barracks, thus opening the door. The zealous men burst through the door and declared that they were conducting a bawdy house raid. While Fabo did not remember seeing a warrant, he did remember being asked to strip. Once he removed his pants, the raiding officers simply laughed at him and told him to dress. This experience with the Police, being Fabo’s only encounter with them, still taints his perception of law enforcement several decades later. He was not concerned about his charges or his trial, as he placed a great deal of trust in the lawyer hired by his employers to conduct the defence.

Fabo believed that Morris Manning was a “capable constitutional lawyer,” and with a disdain for internal personality conflict, he remained at a distance from the organizing activities of the RTPC. On several occasions, the RTPC actively attempted to get Fabo involved in various activities. In December 1979 he agreed to construct display panels to advertise an RTPC “supporters card drive,” but this is the extent of his volunteerism within the Committee.⁵⁵ In an early attempt to bridge the growing gulf between the business owners and the RTPC, John Alan Lee suggested that Fabo “be used as a campaign

⁵⁵ “Minutes of Executive Meeting,” CLGA, RTPC (1984-002), Box: 1, File: 9, December 18, 1979: 3.

symbol.”⁵⁶ He was perceived as a perfect symbol because his leftist political leanings and status as an employee resonated with activists who would otherwise have been willing to allow the business interests to defend themselves. However, the fact that he was charged as a “keeper” along with the owners, and the fact that he was keen to have his case represented by his co-accused counsel (Manning), linked him to Levy, Stenhouse and Hislop. Fabo did not remember ever being approached as a campaign symbol for the RTPC, nor was he ever asked to act as the RTPC Social Arranger, as suggested by Don Franco at another executive meeting.⁵⁷

A perceived gaffe from George Hislop in the wake of the Barracks verdict did not divide the community between business owners and activists. According to both the *Globe and Mail*, and the *Toronto Sun*, Hislop allegedly called the verdict (acquitting him and his two fellow owners, but a finding of guilt for Fabo and his fellow attendant Gaudet) “a victory.”⁵⁸ If these reports were true, Hislop’s statement would reveal cynicism and selfishness on the part of the bathhouse ownership, who in that light would have had little regard for those in their employ. However, Hislop quickly admonished the press for reporting the false story, stating that he had “no recollection of saying to anyone “ ‘it’s a victory’ for I simply do not believe that to be the case ... what I and the gay community are seeking is not “victory” but clearly defined laws, so that in matters of private sexual conduct we are not placed in an adversary position with the police and the Crown.”⁵⁹ Fabo retained admiration and respect for Hislop, calling him “a fixture” in gay politics who established much of the early organizing in Toronto through the Community Homophile Association of Toronto (CHAT). Fabo, who would be most offended by Hislop’s comments, had no recollection of him calling the verdict “a victory.” It was this period between hearing the verdict and receiving his sentencing that was the most stressful for Fabo. He credited

⁵⁶ “Minutes of Executive Meeting,” CLGA, RTPC (1984-002), Box: 1, File: 9, February 25, 1980.

⁵⁷ “Minutes of Executive Meeting,” CLGA, RTPC (1984-002), Box: 1, File: 9, April 28, 1980.

⁵⁸ Paul Palango, “2 of 5 convicted in Barracks case,” *Globe and Mail*, June 13, 1981: 5; “2,000 gays protest raid: Nation-wide discrimination charged,” *Toronto Sun*, June 14, 1981: 51.

⁵⁹ George Hislop, “Barracks Trial,” *Globe and Mail*, July 2, 1981: 6.

Manning for all of his fine constitutional work, and for helping him receive a conditional discharge two weeks after the verdict. On June 24, the *Globe and Mail* reported that Fabo and Gaudet were sentenced to two years probation, but the discharge meant that neither had a conviction registered against them, nor did the charges appear on their criminal record. Fabo was pleased with this result, as it meant he was unrestricted from travelling to showcase his various art projects. One of his projects, entitled “Self Portraits of an Alleged Keeper of a Common Bawdy House,” included an artistic rendition of his police mugshot and fingerprints; the police refused to provide him with a copy of the original. Fabo enjoyed telling his story among his fellow artists, declaring himself the “only madam in the art world of Toronto.” But even if Fabo stayed away from formal political organizing, the RTPC marched forward after his trial.

The gay community responded to the verdict with a 2,000-strong march in downtown Toronto, protesting not only the Barracks decision but also a bathhouse raid in Edmonton on May 30, in which 62 men were charged under the bawdy house law.⁶⁰ With bathhouse raids in Alberta, Ontario, and Quebec, the Toronto protesters claimed that the bawdy house law was being used against gay men all across Canada, making it a national issue.⁶¹ The protest was successful in harnessing the political opportunity of the Edmonton raid and the Barracks verdict to make a statement on the bawdy house law. The protest, organized by the RTPC, was praised by the police for being a “well-conducted demonstration.”⁶² With the support of thousands of queers and their allies marching in the streets, the trial of the five Barracks keepers from the 1978 raid was a preview to the hundreds of men who were about to face their day in court from Operation Soap.

The Barracks trial was important to the RTPC for two reasons. First, it established the legal boundaries for coordinating a wide-scale legal defence. Manning’s constitutional and legal arguments,

⁶⁰ “City hall rally site over bathhouse raid,” *Globe and Mail*, June 4, 1981: 10.

⁶¹ “Understanding the issues – a fact sheet: flyer for June 12 demonstration,” CLGA, Body Politic Files (1983-009), Box: 3, File: Gay Community Leaflets, June 12, 1981.

⁶² “2,000 protest bawdy house law,” *Globe and Mail*, June 13, 1981: 5.

tested by Canada's top court, failed to provide an avenue of escape for keepers and found-ins alike. For the hundreds of bath trials ahead, the Barracks trial removed the possibility of challenging the bawdy house law for being "void due to vagueness" in defining the term "indecent." Similarly, the other keeper trials would not be able to request a jury, and found-ins would not be able to claim that the bawdy house law falls under civil and property rights under the purview of the provinces. Instead, legal defence strategy had to take these lost challenges into account, with lawyers and the RTPC left with no other option than to conjure more creative approaches to courtroom resistance. But secondly, the Barracks trial revealed that the Crown was going to tenaciously prosecute these trials, pulling out all of the stops (and dildos) to embarrass and shame the gay community's indecent behaviour. In the *Body Politic's* post-mortem of the trial, the editors of the collective concluded:

The Barracks decision is not acceptable to the gay community. It leaves the State firmly entrenched in our bedrooms. But is not the worst we might have expected. McMurtry did not get his way. Gay sex *per se* has not been found to be indecent. The Barracks is a skirmish in a long struggle. The decisive battles are yet to come.⁶³

Securing a Legacy of Victory: The Operation Soap Found-in Trials

As the Barracks trial was unfolding, the RTPC was busy reinventing itself so that it could mount a legal defence for the 286 found-ins charged in Operation Soap. Theoretically the RTPC had the organizational framework to coordinate such a defence, but the huge number of defendants compared to the two dozen from 1978 was overwhelming for the small group. At John Alan Lee's last general meeting as Chair, three weeks prior to Operation Soap, the RTPC had a core group of seven activists who sluggishly attempted to keep the Committee relevant.⁶⁴ However, Lee's resignation and the prompt action of some RTPC activists and members of the *Body Politic* collective (who worked to harness the political power stemming from the raids) provided the opportunity for the Committee to reinvent itself.

⁶³ "Bawdyhouses: Public Sex and Sharks," *The Body Politic*, July 1981: 6.

⁶⁴ "Minutes of General Meeting," CLGA, RTPC (1986-002), Box: 1, File: Minutes, January 12, 1981.

By acting quickly, these gay activists opened the door for many in the community to channel their anger into direct participation. As a result, the RTPC was transformed from a closed organization to a participatory group focussed on coordinating a legal defence and mounting a political campaign in the streets, at City Hall, and in Parliament. Hundreds of community members were politicized, and this brought a new set of talents to the Committee. In the days before the community meeting at Jarvis Collegiate, the RTPC was busy with logistical preparations as well as laying out the framework for how the Committee would proceed in responding to the raids.

The most important shift for the RTPC in these pivotal few days was to place the focus back on the found-ins. Legal coordination prior to February 5 was concentrated on the keepers' trial, partly because the keepers and their friends controlled the agenda in the RTPC's first year, but also because their trial established the legal boundaries of the subsequent found-in trials. However, this approach was met with significant criticism. For one, the found-ins from the 1978 Barracks raid complained that they were not being given any support from the Committee.⁶⁵ But moreover, George Smith stated at the RTPC executive in April 1980 that "the central issue is the political thrust of the Committee and its general policy," and a tarnished "relationship with the community."⁶⁶ As a result, it was imperative that in the RTPC reinvention, service to the found-ins, the most vulnerable men in the community, became the top priority. In arranging the public meeting at Jarvis Collegiate, members of the Committee planned to meet separately with as many found-ins as they could find.

Found-ins were approached to speak at the meeting and they were placed at the top of the agenda, which was immediately followed by an information session on their legal defence, and an appeal to raise funds from the rest of the participants. Throughout the meeting, part of the auditorium was "set aside for the purpose of counselling people with respect to their upcoming court

⁶⁵ "Minutes of Executive Meeting," CLGA, RTPC (1984-002), Box: 1, File: 9, January 28, 1980: 2.

⁶⁶ "Minutes of Executive Meeting," CLGA, RTPC (1984-002), Box: 1, File: 9, April 28, 1980: 2-3.

appearances.”⁶⁷ After the general meeting in the auditorium, the large crowd was divided into various groups, each in their own classroom at the high school. Each room was a different “sub-committee” of the group, including the Political Action Committee, the Fundraising Committee, the Documentation Committee, and the Legal Coordination Committee. Each room enabled the hundreds of attendees to pick their preferred avenue of involvement, both according to interest, and according to expertise. The iconic high school on Jarvis Street was transformed from an educational institution into a space of political resistance. The massive influx of community participation revolutionized the RTPC, which was barely recognizable from the small group it was prior to Operation Soap.

The conflict between gay business and RTPC activists continued even after the RTPC reinvented itself. In the first few weeks after the meeting at Jarvis Collegiate, the newly formed Legal Coordination Committee was busy connecting with found-ins to persuade them to plead not guilty, and to let the RTPC connect them with a lawyer. However, when the RTPC received an invoice from Manning related to the Barracks case, the legal committee was thrust into the conflict between Rick Stenhouse and John Alan Lee over the failed *Advocate* ad. Manning’s bill amounted to just under \$24,000, which included research into the bawdy house law, the constitutional challenges at the various courts of appeal, and a challenge to the Supreme Court. The RTPC was able to reinvent itself after Operation Soap as a result of the massive influx of talented volunteers, but also because of the sizable donations that swelled the Committee’s bank account. As RTPC Chair, Smith noted at an emergency executive meeting to deal with the Manning bill, “the contributions made to the RTPC since the most recent police raids were made with the expectation that such donations would contribute toward the cost of the most recent raids, and to help people charged in those particular raids.”⁶⁸ In other words, the RTPC leadership believed

⁶⁷ “Minutes of Special Meeting,” CGLA, RTPC (1984-002), Box: 1, File: 9, February 9, 1981.

⁶⁸ “Minutes of Coordinating Committee,” CLGA, RTPC (1986-002), Box: 1, File: Executive Minutes, February 27, 1981: 1.

that those making contributions were doing so with the belief that the money would go toward funds from Operation Soap, not toward previous raids or campaigns.

Although the group was likely not aware of this, the request made by Stenhouse and his business, RLS Enterprises, belies the history of the relationship between the business owners and the RTPC. RLS Enterprises had several gay establishments in its portfolio, including the Barracks, the Club Baths, and Buddy's, a bar on Church Street. These establishments had "RTPC Collection Boxes," that were emptied by Stenhouse and Levy; the RTPC did not have access to these funds, nor did they have any voice over their allocation. Smith argued that this kind of confusion was already affecting the relationship between the RTPC and its funding base. He advised the executive that "rumours regarding the RTPC's integrity abound," and that "we must make fair and honest decisions with respect to this issue, and those decisions must be seen as such, otherwise all of our work is in danger of being undermined."⁶⁹ On Dennis Findlay's suggestion, the RTPC executive passed a motion dictating that only the RTPC is to take custody of monies from collection boxes throughout the community, including from those businesses under RLS Enterprises. A special "Boxes Subcommittee" was formed with Michael Johnson as its chair.⁷⁰ Johnson later took a leadership role in RTPC fundraising activities, and remained active for the duration of the group's history.⁷¹ The RTPC decided to continue to raise funds for Manning and the Barracks case, but they attached a caveat that required Manning to cooperate with the other lawyers being brought into the Committee to organize a defence. After that point, funds would not be dispersed unless the Committee as a whole stood to benefit. The RTPC took greater control over their finances and their fundraising, but they still required an overhaul of the group's finances in order to engender a sense of competence to its donors.

⁶⁹ Ibid, 2.

⁷⁰ "Minutes of Coordinating Committee," CLGA, RTPC (1986-002), Box: 1, File: Executive Minutes, May 3, 1981: 1.

⁷¹ Interview with Michael Johnson, October 6, 2016.

Civil lawyer Charles Campbell, who was among the hundreds of new faces in the RTPC after Operation Soap, suggested a funding model that would address these concerns and enable the Committee to maintain its integrity as a fundraising institution. First, he noted the inherent problem associated with the fact that throughout the Barracks trial, they were “being asked to assist in a case in which the RTPC has been allowed no input with respect to lawyers, strategies, etc.”⁷² For Campbell, it was imperative that the reinvented RTPC have a group that was directly connected to the overall legal strategy and the tactics used by lawyers retained using RTPC funds; the model used in the Barracks case, where the RTPC was kept in the dark from the strategies and tactics of Manning, was deemed an unsustainable model incapable of meeting the needs of the Operation Soap found-ins. Campbell suggested a funding model that established one general fund with disbursements divided into three separate categories: one for the Barracks trial, one for the Operation Soap charges, and one discretionary fund.⁷³ The discretionary fund was designed to allow flexibility to the Committee to fund cases that fell outside the scope of the bath raid charges, as there was considerable debate among the group to fund cases that were not related to the bath raids or to bawdy house charges. Although this would later change, the focus immediately after Operation Soap was to combat bawdy house charges.⁷⁴ This is why they focussed on the Barracks trial, the found-in trials, and on the federal government’s Bill C-53 (See Chapter 4). After the Barracks trial, but before the Operation Soap trials, there was one other bawdy house charge that needed to be challenged.

The charges levied against Don Franco in 1979 were so outrageous that he became an instant fixture in the RTPC. Several of the activists I interviewed for this project described Franco as a man who

⁷² “Minutes of Coordinating Committee,” CLGA, RTPC (1986-002), Box: 1, File: Executive Minutes, February 27, 1981: 2.

⁷³ Ibid, 4.

⁷⁴ Ibid, 5.

existed on the fringe of social circles,⁷⁵ and yet was also described as dedicated to the movement, and he maintained a consistent presence at community meetings. He served in various roles on the RTPC executive for all of John Alan Lee's tenure, and he was instrumental in helping organize the 1979 sit-in at Roy McMurtry's office. Throughout the many delays in his trial (Franco was charged in June 1979, and did not see trial until September 1981), the RTPC utilized Franco's story as both a rallying cry and a fundraising appeal.⁷⁶ For the gay community, the bawdy house charge against Franco in his own home was a sign that the police were attempting to circumvent Trudeau's 1967 declaration: "the state has no place in the bedrooms of the nation."

Franco was acquitted of his charges on September 24, 1981. The *Toronto Star* reported that in releasing his decision, Judge Maurice Charles cautioned the "homosexual community, which was heavily represented in court, that being homosexual isn't the right some 'misguided' members of the community seem to believe it is."⁷⁷ The *Body Politic* followed the decision more carefully, and reported Charles' "confused, rambling, frequently incoherent" decision in-depth. Charles argued that "the acts committed by the accused are not only indecent, but grossly indecent. The Canadian community will not tolerate them." Even more to the extreme, Charles continued by stating, "we cannot help but take judicial notice... of members of the homosexual community who very militantly seem to be demanding rights... I say as the law stands now, it only provides a defence. The law only decriminalizes homosexuality – it doesn't make it a right."⁷⁸ As reviewed in Chapter 4, Franco's case was not decided on indecency, but rather hinged on the fact that regardless of how indecent the court found Franco's

⁷⁵ The author concedes that it is difficult characterizing a man when several interview subjects describe Franco as both dedicated and endearing, yet odd and socially awkward. The author greatly regrets being unable to find Don Franco before his death in February 2014.

⁷⁶ "You're under arrest! RTPC Flyer", CLGA, RTPC (88-011), Box: 2, File: 6, October 1979; "Are you policing your tax dollars?", CLGA, Body Politic Files (1983-009), Box: 1, File: OHRC – Bill 7 Background, October 1979; "Action! Newsletter of the RTPC," CLGA, RTPC (84-015), Box: 1, File: 1, January 14, 1980.

⁷⁷ "Ex-teacher acquitted in bawdy house case," *Toronto Star*, September 25, 1981: A19.

⁷⁸ "The judgment: a mixed bag," *Body Politic*, November 1981: 9.

sex life, provided he was conducting his acts in private (with only one other person), he was protected under Trudeau's 1969 partial decriminalization.

The Franco case was one among several instances of good fortune for the RTPC ahead of the hundreds of found-in trials. For one, Franco's case (in addition to the Barracks verdict) revealed that the police and prosecutors were going to face major challenges in convincing the courts to convict those charged. The trials also sent a message of hope to the men charged in the raids. Clayton Ruby, Franco's lawyer, added a high-profile endorsement to fighting bawdy house charges by proclaiming that Franco showed "courage over the two-year ordeal."⁷⁹ Found-ins were encouraged by the Franco and Barracks decisions, and this emboldened many to fight their own charges. In his decision, Judge Charles admonished the Toronto Police for acting as *agent provocateurs* in the case, arguing that while sometimes this tactic is necessary for known criminals, "a case like this does not warrant the use of such powers."⁸⁰ On the same day as the Franco decision, Arnold Bruner published his study on the relationship between the gay community and police. Although Mayor Art Eggleton, the Metropolitan Toronto Police, and the *Toronto Sun* downplayed Bruner's study, it added legitimacy to the gay community argument that they were unfairly targeted by police.⁸¹ As part of his study, Bruner discovered that the police believe that "any gathering of homosexuals should be scrutinized by the police. The reasoning was that homosexuals attract crime."⁸² In the summer of 1981, Toronto's gay softball league, the Cabbagetown Group Softball Leagues, hosted the Gay Softball World Series. That event, which saw over 700 gay athletes come to Toronto from ten US cities, attracted an undercover police presence.⁸³ As a means to discourage this kind of targeting by police, Bruner advised the

⁷⁹ Gerald Hannon, "Bedroom, not bawdy house," *Body Politic*, November 1981: 9.

⁸⁰ "The judgment: a mixed bag," *Body Politic*, November 1981: 9.

⁸¹ "Eggleton Against Hiring Gay Cops," *Toronto Sun*, September 25, 1981: 4; Claire Hoy, "Gay study is plain sad," *Toronto Sun*, September 27, 1981: 13.

⁸² Arnold Bruner, "Out of the Closet: Study of Relations between the Homosexual Community and Police," Toronto: City of Toronto, September 24, 1981: 99.

⁸³ *Ibid*, 100.

Attorney General “to fill the vacuum by setting guidelines for the police and Crown Attorneys, as has been done in British Columbia, and in San Francisco.”⁸⁴ With the Franco verdict and the Bruner Report, September 1981 was good news for the found-ins about to see trial in the months ahead. However, as the Operation Soap trial dates were approaching, the RTPC was increasingly inundated with funding requests from found-ins, keepers, lawyers, and activists. This overwhelmed the Committee’s ability to make appropriate funding decisions and to keep ahead of the arduous task of coordinating all the lawyers, who according to RTPC activist David Rayside, “do not cooperate by nature.”⁸⁵

Rayside was instrumental in establishing the arms-length affiliate to the RTPC: The Right to Privacy Foundation. Rayside was not in Toronto at the time of the Operation Soap raids, but on his return from a research sabbatical in the Fall of 1981 he realized the RTPC lacked important bureaucratic infrastructure, for which his talents were best suited. The RTPC as a whole was generally consumed with immediate political campaigns, including those to reform the police, build coalitions with other groups, lobby municipal and provincial politicians, and to change the Criminal Code. These campaigns were deemed ideologically necessary, and enabled the committee to focus on broad reform while the slow drudgery of the legal system kept everyone in waiting. Meanwhile, there was important, apolitical work that was necessary to ensure the group was sticking true to its overall mission to coordinate a legal defence. Charles Campbell’s formula, which divided RTPC funds into three categories, was crucial to reaffirming the community’s trust in the Committee’s financial integrity. However, a more intensive process was required in order to match the over 300 men charged with the 40 lawyers who volunteered to be part of the defense.⁸⁶

⁸⁴ Ibid, 31.

⁸⁵ Interview with David Rayside, October 7, 2014, October 7, 2014.

⁸⁶ “List of lawyers working with the RTPC,” CLGA, RTPC (1986-002), Box: 1, File: RTPC Toronto, ND (Early 1982).

Both the amount of money donated to the RTPC, and the amount being requested (by lawyers, keepers and found-ins), were beyond the Committee's organizational capabilities. By the end of August 1981, the RTPC raised \$61,468.18, of which only \$10,400 had been spent. The allocation at the end of the summer was primarily to Morris Manning for the 1978 Barracks case (the RTPC sent Manning \$5,000), \$3,000 to lawyer David Besant who represented Paul Gaudet in the Barracks trial, and finally, \$2,000 was given to Clayton Ruby for the Franco case.⁸⁷ Ruby notified the RTPC ahead of Franco's verdict that it was likely the case would continue to appellate court; if the defence lost, Ruby intended to appeal, whereas if Paul Culver and the Crown lost, Ruby expected they would appeal.⁸⁸ In another request, the keepers charged in the June 1981 Back Door Gym raid were seeking \$1000. And in yet another request, Peter Maloney, who was representing a found-in from the 1978 raid, was seeking financial assistance in pursuing a legal appeal.⁸⁹ Fundraising by the Committee was fruitful, but it was also difficult to predict. Likewise, the amounts being requested/billed by lawyers varied from case to case, and these decisions occupied too much time at RTPC executive meetings.⁹⁰

The solution to this organizational problem was to establish the Right to Privacy Foundation, a group that was separated from the day-to-day political organizing of the Committee. The Foundation was a group of activists, lawyers, and academics who were able to conscientiously, consistently, and reliably make difficult funding decisions in allocating RTPC funds. Several longstanding RTPC activists were part of the Foundation, including Chairperson George Smith, future Chairperson Graham Crawford,⁹¹ and Secretary Terry Farley. Harriet Sachs (Clayton Ruby's partner) acted as the Foundation's

⁸⁷ "Minutes of Monthly General Meeting," CLGA, RTPC (1986-002), Box: 1, File: Minutes, agendas, meetings, September 14, 1981: 2.

⁸⁸ In spite of an initial threat, Culver and the Crown opted to not appeal the Franco decision. "Letter from Clayton Ruby to George Smith," CLGA, RTPC (88-011), Box: 1, File: 10, July 20, 1981.

⁸⁹ "Letter from Peter Maloney to George Smith," CLGA, RTPC (88-011), Box: 1, File: 10, October 26, 1981.

⁹⁰ Interview with David Rayside, October 7, 2014, October 7, 2014.

⁹¹ Crawford was also an important political strategist and advisor to George Smith. Crawford accompanied Smith to Parliament in speaking on Bill C-53 (see Chapter 4).

trustee, and David Rayside acted as Secretary of the Board. The Foundation crafted a funding formula by which the RTPC dispersed funds to lawyers. This formula was “based on the number of hours a lawyer spends preparing a case and the amount of time actually spent in court.”⁹² The Foundation also crafted several other stipulations that streamlined the process for found-ins and keepers alike to request resources from the RTPC. For one, keeping with the tradition of the RTPC, the Foundation was only willing to assist those who were willing to fight their case with a “not guilty” plea; no cases where there was a plea of guilt were funded.

Requiring defendants to plead not guilty to receive RTPC funds reflected both a long-standing liberationist perspective and some frustrating circumstances immediately preceding the formation of the Foundation. On November 2, 1981, Stephen Briggs, who worked as a cashier at the Romans II bathhouse, pleaded guilty to keeping a common bawdy house. According to RTPC lawyer Jack Gemmell, although this was against RTPC policy for funding, it was in fact “strictly a business decision.”⁹³ According to court documents,⁹⁴ Briggs was a 30-year-old employee of the Romans bathhouse, who, in the wake of the Operation Soap raids, decided to move back to his hometown of Vancouver to care for his ailing parents. Instead of being burdened with a lengthy legal case, the owners of the Romans opted to take a plea deal where Briggs would admit guilt, they would agree to a statement of facts, and the keeper charges against the rest of the defendants (Owen Ryan, Manuel Macias, Manuel Rosso, and William Taylor) would be dropped. Briggs was convicted, but at the request of both the Crown and the defense, he was given an absolute discharge. The goal for the prosecution was not to bring convictions against the owners and the keepers of the bathhouses. Instead, their goal was to have on record the fact that the Romans was a convicted, indecent, bawdy house.

⁹² David Rayside, “Letter to Found-ins from the Right to Privacy Foundation,” CLGA, RTPC (84-015), Box: 1, File: 2, February 26, 1982.

⁹³ Interview with Jack Gemmell, April 9, 2015, April 9, 2015.

⁹⁴ Q v. Briggs, Court Transcript, CLGA, RTPC (88-011), Box: 3, File: 41, November 2, 1981: 3.

Similarly, in a surprise move, Jack Campbell (no relation to Charles) travelled from the United States on November 20, 1981 to plead guilty to both a keeper charge and a conspiracy charge. Campbell was a part owner of both the Barracks and the Club Baths. In the mid-1970s, Peter Maloney travelled to Florida to meet with Campbell and Ray Diemer, who were the entrepreneurs behind the US-based Club Baths bathhouse chain. And so with the help of Maloney, and later, Rick Stenhouse, Jerry Levy, and George Hislop, these men owned and operated two of Toronto's most successful bathhouses. Campbell owned 30 percent of the Barracks, and 40 percent of the Club Baths. According to court documents, between April 1978 and February 1981, Campbell earned a profit of \$111,599.77⁹⁵ from his share of the two bathhouses.⁹⁶ The fact that the Barracks, and now the Club Baths, had been criminally charged as a bawdy house, and because the ownership was a group of people across an international boundary, Campbell and his lawyer felt that it was unlikely that they would succeed in mounting a legal defense. In a move that surprised everyone, Campbell flew into Toronto for a day just to plead guilty, unbeknownst to his friends or his business partners. In exchange for his guilty plea, the bawdy-house charges (as a keeper) were dropped, and he was levied a fine of \$40,000.⁹⁷

The RTPC held an executive meeting on November 22, and this was the first item on their agenda. A plan was put together to have Maloney, George Hislop, Morris Manning, and Clayton Ruby (who defended several found-ins, including Don Franco) hold a press conference. The RTPC expressed concern that these guilty pleas by bathhouse keepers would "start an avalanche" of guilty pleas by found-ins, and would potentially have an "adverse effect on RTPC funding efforts."⁹⁸ The press conference was designed to reassure the community and the found-ins that the remaining keepers were going to fight their charges, and for the remaining owners of the Barracks and the Club Baths, they

⁹⁵ Campbell paid Ontario, Canada Federal, and US Federal tax on this income.

⁹⁶ Queen v. Campbell, CLGA, RTPC (88-011), Box: 3, File: 41, November 20, 1981: 11.

⁹⁷ Ibid, 21.

⁹⁸ "Minutes of Executive Meeting," CLGA, RTPC (1986-002), Box: 1, File: RTPC Executive Minutes, November 22, 1981: 1.

remained committed to that fight for several years following Operation Soap. After several hearings through various appellate courts regarding warrants and evidence, the conspiracy charges against the Barracks/Club Baths owners were dropped on September 24, 1984. All other charges against Maloney and Hislop were dropped, and in exchange they agreed to the fact that the Crown had a *prima facie* case against them (this is a legal term used to acknowledge that the prosecution had a minimal case; by agreeing to this, Hislop and Maloney waived their right to sue for wrongful prosecution).⁹⁹ As part of the deal, Diemer, Levy, and Stenhouse pleaded guilty to keeping a common bawdy house, and paid a fine of \$30,000, \$8,000, and \$2,000, respectively.¹⁰⁰

As the RTPC and the Legal Coordinating Committee were readying themselves for the onslaught of found-in trials in January and February 1982, there was yet another guilty plea from a keeper case. On January 11, Brian Rhodes, Manager of the Richmond Street Health Emporium (the fourth bathhouse raided in Operation Soap), pleaded guilty to keeping a common bawdy house. He received a \$2,000 fine, and in exchange, the Crown dropped all charges against the other 5 keepers, including the employees. This was Rhodes' primary motivation: to ensure that his workers did not face the possibility of a harsh fine or a prison sentence as a result of being found guilty of being a keeper; Rhodes sought to avoid a case like Andy Fabo, who was the employee convicted of 'keeping' the Barracks from the initial 1978 raid. Rhodes was committed to the RTPC cause. In August 1979, Rhodes pledged a total of \$6410 to the RTPC on behalf of the Richmond Street bathhouse. This was in support of both the keepers and found-ins from the December 1978 Barracks raid.¹⁰¹ Rhodes was not trying to undermine the efforts of the RTPC, but he pleaded guilty to save the legal fate of his colleagues and employees. With his guilty

⁹⁹ Lee Waldorf, "Club/Barracks conspiracy charges dropped," *The Body Politic*, November, 1984: 9.

¹⁰⁰ *Ibid*, 10.

¹⁰¹ "Letter from Brian Rhodes to the RTPC," CLGA, RTPC (1984-002), Box: 1, File: 7, August 1, 1979.

plea, each of the four bathhouses had a finding of guilt by at least one keeper, and this affected the found-in trials.

The RTPC required that defendants plead “not guilty” for two reasons. First, there was the ideological reason: RTPC activists denied the label of “indecent” as a form of describing or defining gay sex.¹⁰² To plead guilty and accept the fact that the bathhouse was a bawdy house was contrary to the liberationist agenda, even if it was part of a plea bargain. But second, there was the legal reason. By pleading guilty, and accepting the fact that the bathhouse was a bawdy house, this eliminated the prosecution’s need to demonstrate at each found-in trial that the business establishment was indecent. As a result, this eliminated a possible defense for found-ins, and this was met with concern by the legal committee.

In each of the hearings where a keeper pleaded guilty, the Crown read into evidence as statements of fact that these bathhouses were places of indecency. In each case, the guilty plea came with the caveat of accepting as fact that indecency is exactly what took place inside the bathhouse. For example, in the case of Romans bathhouse, where employee Stephen Briggs pleaded guilty, the Crown presented a witness to testify to the fact that the Romans was a place of indecency. Sergeant Gary Carter of the Metropolitan Toronto Police’s Intelligence Bureau testified that “while on the premises, the [undercover] officers observed acts of buggery, indecency, oral sex, masturbation and group sex taking place in the open, either in the common areas or open-door rooms.”¹⁰³ At the Barracks, it was read into open court that “officers frequently witnessed acts of, quote, ‘fist-fucking,’ unquote, in which one male inserts his closed fist and often the complete forearm, with the aid of a lubricant such as Crisco, into the anus of another male.”¹⁰⁴ At the Club Baths, “a male, approximately 18 years of age,

¹⁰² Interview with Dennis Findlay, October 2, 2012.

¹⁰³ Q v. Briggs, Court Transcript, CLGA, RTPC (88-011), Box: 3, File: 41, November 2, 1981: 3.

¹⁰⁴ Queen v. Campbell, CLGA, RTPC (88-011), Box: 3, File: 41, November 20, 1981: 6.

was observed to enter one of the rooms with an older male, approximately 60 years of age. The older male sat on the side of the bed and performed an act of fellatio on the standing, younger male. While the act was taking place, the door to the room was open and the older male was masturbating himself.”¹⁰⁵

Carter was as keen as Anthony Comstock¹⁰⁶ in his investigations of indecent sex. In Chapter 4, I present the case of Mervyn Lawrence Mason, the author of a book entitled *I am for group sex*. Mason was brought before a courtroom in Toronto as a result of Carter conducting an undercover operation at one of Mason’s private group sex parties in May 1980.¹⁰⁷ In the Romans case, Carter testified that “several patrons would lie naked in open-door rooms. Several would have erect penises and in some cases, they would be masturbating. Other patrons would cruise the hall – maze of hallways, making contact with the males in the open-door rooms.”¹⁰⁸ In his evidence on the Barracks, he reported that “inside the main entrance door was an artist’s easel. Written on the easel was, quote, ‘Red hot pissers needed at the tub.’ There was a room containing a bathtub on the main floor. The tub appeared to have a pool of urine in the bottom.”¹⁰⁹ Carter joined the Metropolitan Toronto Police in 1966, and by 1980 he was working in the Intelligence Bureau. He conducted many dubious undercover investigations, including a suspected case of spying and eavesdropping on the Police Oversight Board in 1992. Carter also pleaded guilty in 2002 to stealing from an Intelligence Bureau fund, and spent one year under house arrest. Carter’s former supervisor, Ron Sandelli, “described him as a lone wolf who often launched surveillance on targets without orders.”¹¹⁰ We know that Carter was not acting as a lone wolf

¹⁰⁵ Ibid, 9.

¹⁰⁶ Anthony Comstock was a late 19th century moral reformer. In New York City in 1878, Comstock paid a fee and watched a show at the Greene Street Brothel. He then arrested the women who performed for him. As part of his moral reform efforts, he founded the New York Society for the Suppression of Vice in 1873.

¹⁰⁷ *R v. Mason*, [1981] O.J. No. 3263. Also found in: CLGA, Arnold Bruner Files (98-050), Box 2, File 17: Legal.

¹⁰⁸ *Q v. Briggs*. 3.

¹⁰⁹ *Queen v. Campbell*, CLGA, RTPC (88-011), Box: 3, File: 41, November 20, 1981: 4.

¹¹⁰ CBC News, “Officer who wrote covert reports left force in disgrace,” *CBC News Online*, May 18, 2007: <http://www.cbc.ca/news/canada/toronto/officer-who-wrote-covert-reports-left-force-in-disgrace-1.667531>

in Operation Soap. Quite the contrary, he had a team of at least three undercover police constables, and the upper echelons of the police supported his investigations over a six-month period.¹¹¹ One lone wolf cannot mobilize a force of 200 officers in a mass arrest. Carter's name appears in several of the keeper trials, usually to read evidence of indecency from his team's investigation in Operation Soap.

In spite of these guilty pleas by the keepers, which undermined challenges to 'indecency' in future defenses, the RTPC continued to insist that found-ins plead not-guilty in order to receive the committee's support. They also made it clear that the Foundation would not cover each case in its entirety, but that they could "usually pay half or more of those costs."¹¹² Finally, anyone charged, or their lawyer, was required to provide a detailed invoice to the Foundation for review. The Foundation was introduced to the RTPC General Meeting on November 9, and the funding model was established by the RTPC Executive on December 13, 1981.¹¹³ This was just in time for the first round of found-in trials from the Operation Soap raids, all of which were being coordinated primarily through RTPC activist Dennis Findlay.

When Findlay arrived at Jarvis Collegiate on February 10, 1981, he had no idea that he was about to become one of the most important and influential members of the RTPC. Findlay was a baker who ran a business out of his home on Seaton Street, across the street from the commune (run by Tim McCaskell and George Smith) that played the central role in organizing the RTPC's response to the raid on February 5. Findlay remembers that the meeting at Jarvis Collegiate was filled from "wall to wall" with members of the community.¹¹⁴ Although he had heard of the RTPC prior to Operation Soap, he did

¹¹¹ "Evidence Observations made by PC James," CLGA, RTPC (88-011), Box 3, File: 41 – Court Transcripts; "Internal Police Memo from Staff Inspector Donald Banks to Police Chief Jack Ackroyd," CLGA, Arnold Bruner (98-050), Box: 3, File: Police, February 23, 1981.

¹¹² Interview with David Rayside, October 7, 2014.

¹¹³ Minutes of General Meeting, CLGA, RTPC (1986-002), Box: 1, File: Minutes, agendas meetings, public, November 9, 1981: 4; Minutes of Executive Meeting, CLGA, RTPC (1986-002), Box: 1, File: RTPC Executive Minutes, December 13, 1981: 3.

¹¹⁴ Interview with Dennis Findlay, June 22, 2013.

not attend any of their meetings until the large community meeting at Jarvis Collegiate. His story is like many of the other activists I interviewed for this project. His coming-out experience was in the more suburban Kitchener-Waterloo region in 1973, where he volunteered with the K-W Homophile Association. He moved to Toronto and got his start in the bakery business when he joined the Spice of Life Commune, a restaurant that dedicated its profits to providing for the members of the household commune. The leftist commune and vegetarian restaurant encouraged a rebellion from many of society's norms and customs, which meant that many of its members had a fluid sexuality (their sexuality was not set on gay or straight, but could "fluidly" move from one end of the spectrum to the other). Findlay also entered gay politics through volunteering with the *Body Politic*.

At the Jarvis Collegiate meeting, Findlay chose to attend the Legal Coordination Committee, because he believed that "this is where the action is, this is where the rubber meets the road."¹¹⁵ Findlay was attracted to the idea that he would be working closely with the found-ins, the ones the RTPC believed were the ultimate victims of the Operation Soap raids. Findlay considered the baths to be an important part of his sexuality. While he did not visit them frequently, he believed that "it could have been me," had he been in a bathhouse on February 5. Findlay also believed that there was a great injustice happening against the gay community, including the bath raids, other raids and arrests, such as those against the *Body Politic*, in washroom entrapment cases, and in public parks. With a firm grasp of his organizational and interpersonal skills, Findlay immediately took a leadership role on the legal committee.

During their first few meetings, the primary strategy of the legal committee revolved around ensuring that as many people pleaded not guilty as possible. Findlay and the rest of the committee employed a deliberate strategy to "take charge of the agenda."¹¹⁶ The courtroom, they believed, was a

¹¹⁵ Ibid.

¹¹⁶ Ibid.

legitimate battleground of resistance to an oppressive state, and pleading not guilty was transformed into a powerful act of political defiance. Reaching out to the more than 300 men charged was a difficult task, and so the legal committee was forced to utilize creative means to contact them. Word-of-mouth and the *Body Politic* were natural starting points for the committee, but Findlay argued that “the fear of publicity or guilt could drive people back to the closet,” and so they had a duty to continue catching people who had not yet come forward.¹¹⁷ Members of the RTPC Legal Coordinating Committee (LCC) began attending court at Old City Hall in an attempt to track down potential found-ins. One member of the LCC, Allan Clapp, was thrown out of the courthouse for leafletting.¹¹⁸ This was an indication that a more organized and discreet approach was required. With the knowledge that the found-ins would have their first court appearances from February 19 to 24, the members of the LCC divided the days among themselves and agreed to attend court. Working with their lawyers, they were trained to read court dockets to better target potential found-ins. This strategy was met with success.¹¹⁹

The LCC “take charge” approach to activism meant they were busy serving the community throughout the lengthy legal process. They acted swiftly to reach out to found-ins to try to team them up with the list of lawyers that they had recruited. Part of the strategy was to educate found-ins on their legal rights and the resources available from the RTPC. In a note to found-ins in February 1981, the LCC outlined exactly what the Criminal Code said about the bawdy house law, their rights to privacy, legal aid, and their ability to contact the RTPC for help. They also urged all of those charged to attend a meeting with lawyers and other found-ins for support.¹²⁰ The LCC worked with other committees in the RTPC to provide legal and counselling services to members of the gay community, which, in turn, encouraged found-ins to join the resistance against the Metropolitan Toronto Police. Among the events

¹¹⁷ “Minutes of Legal Coordination Committee meeting,” CLGA, RTPC (88-011) Box: 1, File: 36, February 17, 1981: 1.

¹¹⁸ *Ibid.*

¹¹⁹ *Ibid.*, 3.

¹²⁰ “Things you should know,” CLGA, *Body Politic* (1983-009), Box: 1, File: 5, February 1981.

coordinated by the support group were socials designed to bring found-ins together. McCaskell argued that this highlighted some of the class disparities within the queer community:

I went to one of the first of these socials, hosted by two relatively well-off found-ins who lived in a large condo near the Art Gallery of Ontario. The condo could probably be best described as piss-elegant, the men refined. In came several younger found-ins, retail workers. They hadn't thought to bring wine. They didn't understand the food. They didn't know what their hosts were talking about most of the time, any more than their hosts understood them. The dinner conversation devolved into a series of awkward silences, and as soon as the last course was served, everyone rushed off to other appointments, to mutual relief.¹²¹

The support groups had only a brief history in the RTPC, but they aided in the early months of the effort to convince found-ins to plead not guilty.

On April 4, 1981, five members of the LCC met to form a group called the Gay Street Patrol. Elan Rosenquist, Findlay, Paul Rapsey, Allan Clapp, and John Burt created the patrol with six objectives, to: patrol streets and laneways where violence was known to occur; come to the aid of any victims; follow a non-violent policy; assist police in making arrests; assist and aid in delivering medical care; assist victims in the process of laying a criminal charge.¹²² By May 14, their legal and first-aid training was complete and the first set of volunteers took to the streets at night armed with whistles.¹²³ The *Toronto Star* labelled the group as "vigilantes" and argued they threatened law and order in the downtown core, saying, "there's a danger that the proposed unarmed patrols may actually create problems where few currently exist."¹²⁴ The *Star* published a reply by Burt, who countered that "members are carefully screened and receive many weeks of training from a lawyer, to advise them of their legal rights; a doctor, so that they can administer first aid; and an accredited self-defence instructor."¹²⁵ Gay Street Patrol was officially separated from the RTPC at the December 13, 1981 executive meeting, this was so

¹²¹ McCaskell, *Queer Progress*, 163.

¹²² "Minutes of Legal Coordinating Committee," CLGA, RTPC (88-011) Box: 1, File: 36, April 4, 1981: 1.

¹²³ Ken Popert, "Street patrols: a whistle away from help," *The Body Politic*, July 1981: 11.

¹²⁴ "No vigilante patrols in Metro," *Toronto Star*, June 1, 1981: A8.

¹²⁵ John Burt, "Street Patrols, not 'vigilantes' he contends," *Toronto Star*, June 5, 1981: A9.

that the LCC could focus on the upcoming trials.¹²⁶ It was then renamed Toronto Gay Patrol, and was coordinated by Liz Devine and Paul Aboud. Devine was an active member of the Patrol and attended several RTPC protests through 1981. She recalled the accusation that they were vigilantes with disappointment, arguing, “we were anything but vigilantes, we were there to protect our community which was under attack.”¹²⁷ There was a particular emphasis on recruiting lesbians. Chris Higgins, one of the patrol coordinators, explained, “queer-bashing is not just the concern of gay men; lesbians, too, are targets of these attacks.”¹²⁸ This was consistent with the brief to the Bruner report by Lesbians Against the Right, in which they cited a 1981 incident where “four lesbians were attacked by two men outside the Brunswick Hotel. Police officers sat in a cruiser and watched.”¹²⁹ The LCC and the intersectional community service work of the Gay Street Patrol strengthened the RTPC legal efforts in opposing Operation Soap. Bob Kellermen of the Law Union of Ontario provided legal training for the patrol.¹³⁰

The Law Union of Ontario played a pivotal role in recruiting lawyers to assist in coordinating the Operation Soap legal defence. Initially there were four criminal lawyers who volunteered to be part of the legal team, and it was this group that crafted the defence strategy. The initial four lawyers were Bob Kellerman, Jack Gemmell, Marion Cohen, and Rebecca Shamai.¹³¹ Kellerman had been a founding member of the Law Union of Ontario in 1973, and the other three were members at the time of Operation Soap in 1981. The Law Union advertised itself as a “coalition of over 200 progressive and socialist lawyers, law students and legal workers,” which through various “collectives” of lawyers

¹²⁶ “Minutes of Executive Meeting,” CLGA, RTPC (1986-002), Box: 1, File: RTPC Executive Minutes, December 13, 1981: 5.

¹²⁷ Interview with Liz Devine, October 16, 2016.

¹²⁸ Danny Cockerline, “Gay patrol a different kind of streetwalking,” *The Body Politic*, May 1982: 10.

¹²⁹ “Lesbians Against the Right Brief to Bruner,” CLGA, Arnold Bruner (98-050) Box: 1, File: 7, n.d.

¹³⁰ “Minutes of Legal Coordinating Committee,” CLGA, RTPC (88-011) Box: 1, File: 36, April 4, 1981: 1.

¹³¹ Shamai was approached for an interview for this dissertation, but declined because of her judicial commitments.

worked on several social justice campaigns. In 1981, the Law Union had eleven collectives, including immigration, family law, right to choose, and the bath house lawyers group. Their stated goal was to work toward “the defeat of oppression and the safeguarding and extension of the rights of workers, women, immigrants, prisoners, minorities and those groups, particularly native Canadians and francophones, struggling for self-determination.” They also worked in a “broader movement for social change,” and were committed to “sharing of strategies and support mechanisms to help translate political principles into practice.”¹³² One of those support mechanisms was to compile a comprehensive briefing guiding activists who might engage with the state through popular protest. Their draft publication, “Offense/Defense: Survival Seminars for Activists,” was used by RTPC organizers to plan their various public demonstrations, and included sections to provide activists with legal advice on matters such as holding public meetings, properly marshalling a demonstration, picketing during a strike, interacting with police, crossing the border, and guidelines for legal searches and seizures.¹³³

There were some lawyers involved in the defence of found-ins who were not enthusiastic about the alliance between the RTPC and the Law Union. In fact, one lawyer, known in the minutes only as “Mr. Figaro,” suggested to found-ins that they steer clear of the RTPC because its “political nature” might “jeopardize their case.”¹³⁴ There were three groups of lawyers who worked with the RTPC: the lawyers from the Law Union who were involved from the beginning, lawyers unaffiliated with the Law Union but who were affiliated with the RTPC, and finally, lawyers who decided to be unaffiliated with the RTPC. In spite of a small group opposed to their involvement, the Law Union of Ontario served as an important ally for the RTPC in the critical moments after Operation Soap, in framing the courtroom as a place of political confrontation, and in terms of forming the legal strategy.

¹³² “Law Union of Ontario Pamphlet,” CLGA, RTPC (88-011) Box: 3, File: 10, ND c. 1981.

¹³³ Law Union of Ontario, “Offence/Defence: Survival Seminars for Activists,” CLGA, RTPC (88-011), Box: 3, File: 11, ND, c. 1981.

¹³⁴ “Minutes of Legal Coordinating Committee Meeting,” CLGA, RTPC (88-011), Box: 1, File: 36, April 7, 1981.

The legal strategy crafted by the lawyers and the Legal Coordinating Committee consisted of three main avenues of defence. One of the early arguments crafted by the legal committee was to request from the court a dismissal of the charges as a result of jurisdictional and timing issues. As in the 1978 Barracks case, the found-in charges were lesser in importance and severity than the keeper charges, so the Crown moved to adjourn the found-in trials until after the keeper trials had been settled. However, this presented a delay of several months as the keeper trials were set for the fall of 1981, and a majority of the found-in trials occurred in the first few months of 1982. For some found-ins, this delay presented an unfair legal situation for them, as they were unable to attend a later trial for various reasons. Most notably (and successfully), this argument worked for the unfortunate found-ins who were visiting Toronto as tourists on the night of the raid. The less serious summary offence of being a found-in meant that the burden to attend trial was a more severe punishment than the legal penalty. As a result, judges were sympathetic to these arguments.¹³⁵ In some of these cases, the Crown was also motivated to withdraw found-in charges.

On June 9, 1981, the Crown quietly dropped the charges against two found-ins from the Romans bathhouse who were pressing the Crown to have an early trial. The two men intended to leave Canada, permanently, in July, and thus needed to settle their legal dispute. With an excuse that would clearly be accepted by the court, the Crown opted to drop the charges instead of proceeding with the trial. They did not want an acquittal in this case to impact the scheduled trial for the Romans keepers, and they did not want to reveal the identity of undercover agents who presumably were still conducting reconnaissance against the gay community. According to RTPC lawyer Marlys Edwardh, the Crown was not prepared for the case, and “they didn’t want to run the risk of giving all their evidence in a found-in trial and have a verdict found against them.”¹³⁶ The Crown was frustrated by these cases. The *Body*

¹³⁵ Interview with Dennis Findlay, April 17, 2015.

¹³⁶ Ed Jackson, “Crown withdraws found-in charges,” *The Body Politic*, July 1981: 9.

Politic reported that an Assistant Crown Attorney refused to answer questions and quipped, “I don’t have time to talk to you. Indeed, I don’t wish to talk to you.”¹³⁷ The other legal strategies developed by the RTPC continued to frustrate Crown attorneys as these trials progressed. However, the main source of frustration for the Crown was not the RTPC: it was the careless execution of Operation Soap by the Metropolitan Toronto Police.

The police conducted Operation Soap on the assumption that ashamed and embarrassed found-ins would quickly plead guilty. They did not anticipate an organized defence where issues of identity or lawful excuse might be raised at trial. If the found-ins were unwilling to further risk their privacy in a prolonged legal battle, there was no need for raiding officers to take extra steps to verify their evidence. There was also no need to make accurate or detailed descriptions of the found-ins in their notebooks, beyond a simple description of height, eye colour, and race. The RTPC and the Law Union lawyers fully intended to exploit the fact that the police were more interested in harassment and vandalism than properly accounting for the charges they laid. The court transcripts make it clear that the police had no idea that they might be called upon to testify at found-in trials, and they were wholly unprepared to do so.

The most often used strategy of defence exploited by the RTPC was the inability of police officers to identify the accused found-in at trial. Dennis Findlay recalled that this was the most common defence strategy adopted by the team, and it was almost always their first line of defence. In order to accomplish this task, the defence lawyer needed to ensure that her/his found-in was not sitting with counsel, but instead was sitting in the “body of the court.”¹³⁸ Prior to the court asking for a plea of guilty or not-guilty, the defence lawyer made a motion to “exclude witnesses.” This meant that anyone in the courtroom who might be a witness in the case (most notably, investigating police agents), had to

¹³⁷ *Ibid.*

¹³⁸ This is a legal term referring to the court gallery, or the place in a courtroom where the public would sit.

leave the court so that they could not see the accused or hear his plea. Once the found-in declared a plea of not guilty, he returned to the body of the court and the witnesses were allowed to re-enter. The witness, once called to the stand (the witnesses in these cases were almost always police officers from the intelligence or morality divisions), was left unable to identify the accused based on their position in court that day, and instead were required to rely on their evidence collected during Operation Soap to properly place the accused at the scene of the crime. With the Metropolitan Toronto Police fixated on harassment, vandalism, and making unprofessional comments about water pipes and gas chambers, their attention was not properly devoted to handling a crime scene and conducting a thorough investigation. This allowed countless found-ins to walk free of their charges.

The judges overseeing these trials were unimpressed with the investigative techniques of the police, and their patience with the Crown prosecutors over these matters of law became increasingly limited. The Dunne case was heard on January 15, 1982, and was one of the first found-in cases to go to trial. Establishing Dunne's identity was the primary issue in this case, and it paved the way for future trials being fought on similar grounds. Dunne was at the Romans bathhouse on the night of Operation Soap, and he was charged with being a found-in. In his trial, we learn the police gathered at C.O. Bick Police College early in the evening on February 5. One officer, Sergeant Paul Couvillon, was positioned near the entrance of the Romans. Couvillon processed Dunne's citation and appearance notice, signed the notice (with Couvillon's signature and police number 1665, Intelligence Bureau), asked Dunne to provide his address and sign the notice in his presence, and then released him. The problem is that Couvillon did not ask for any identification from Dunne. Many bathhouse patrons preferred anonymity, so they did not bring with them identifying documents like a drivers' licence. As a result, Couvillon relied on a "verbal" method of identification (Dunne simply told the officer who he was). When Judge J. Kerr

asked Couvillon to identify the accused in the courtroom, Couvillon could not: “sir, I cannot physically identify this man.”¹³⁹

It was at this point that Judge Kerr first sensed where the direction of the case was heading. He asked the prosecution, led by Crown Attorney Stanley Burger, “is there an issue of identity? Is that the main issue in this case?” Miriam Cohen, an RTPC lawyer and Dunne’s defence counsel, responded, “it’s one of the issues in this case.” Kerr turned to the prosecution and stated, “you’re certainly going to have to have more evidence than this witness if you’re going to establish identity. This witness has said nothing.”¹⁴⁰ For the prosecution, their entire case rested on the fact that Couvillon handed an appearance notice to a man claiming to be Dunne, gave Dunne’s address, signed the notice using Dunne’s name, and indeed, a man named Dunne, living at the same address, was then that day before the court. For Judge Kerr, this was not enough:

Kerr: Do you have any other evidence from any police witness or any other witness to show this man before the Court was in this place that night?

Burger: Just the Appearance Notice that he’s responding to. I mean, he is in Court pursuant to this Appearance Notice.

Kerr: Yes. It’s equally consistent with somebody having given this officer a false name, isn’t it? I mean somebody, a man that suppose – Just suppose for a moment, that the person Officer Couvillon is talking about was not the Accused at all but was someone impersonating the Accused. Suppose I was found there and said my name was Stanley Burger and I work for Crown Attorney’s office.

Burger: With all due respect, as I understand the rule with respect to identification, isn’t [*sic*] the explanation alternative he gives have to be a reasonable one and must it not be found on something more than speculation. I’d respectfully submit it would be speculative to say somebody would give a false name under circumstance where....

Kerr: That may be, Mr. Burger, but you’ve called this Witness. I assumed you were going to follow this Witness with another police witness to say he apprehended the Accused man in another part of the establishment and you’re not.

¹³⁹ R. v. Dunne, CLGA, RTPC (88-011), Box: 3, File: 40, January 15, 1982: 7.

¹⁴⁰ *Ibid*, 11.

Couvillon saw dozens of found-ins during the few hours of Operation Soap, and his notes were scrambled and disorganized to the effect that he could not find Dunne with the limited number of spectators in the body of the court. Kerr acquitted Dunne of his charges, but not before lecturing Burger, Couvillon, and the rest of the Metropolitan Toronto Police:

The police saw fit to charge these people, one might have thought they might have made enough of an observation that they can identify them later in Court. If they weren't interested enough to make sufficient observations so they can identify them in Court, the Court's not going to supply the deficiency. Is there any other evidence of identification stronger than this? The charge is dismissed.¹⁴¹

Judge Kerr was not alone in this frustration toward the Crown and toward the police on the identity issue. For instance, in the trial against a found-in named March, held ten days after Dunne's trial, Judge D. Draper made similar comments regarding the identification issue as Judge Kerr. Draper declared, "one would have thought that for an operation which had required so much police effort, that the police would have seen fit to take some efforts to identify the accused by using photographs or detailed descriptions ... it is up to the Crown to prove identification beyond a reasonable doubt. It has not done so."¹⁴² Even after the Crown had regrouped and launched a series of legal arguments regarding the issue of identity, the judges overseeing these cases remained unconvinced. In the Crane case, the accused found-in was identified by the investigating officer during the trial. However, in this instance, the investigating officer who made the identification was not stationed at the Richmond Street Health Emporium bathhouse, he was stationed at 52 Division, the police station handling these charges. While most found-ins were processed on site, the overwhelming number of charges being laid during Operation Soap meant that some were sent to the station at 52 Division to complete their processing and to obtain their appearance notices. For Crane, the police were certainly able to prove beyond a reasonable doubt that he was in 52 Division that night. However, the police were unable to prove that

¹⁴¹ Ibid, 13.

¹⁴² R. v. March, CLGA, RTPC (88-011), Box: 3, File: 40, January 25, 1982: 2.

he was ever inside the bathhouse (a necessary condition for being convicted of being ‘found-in’). Judge S. Harris’ acquittal of Crane was similar to Judges Kerr and Draper in acquitting Dunne and March:

There is some evidence of identity, but given some evidence of identity, where is there evidence of anything else? There isn’t evidence that he was in the house. That’s the evidence that’s important. Not what went on when he was in the police station. There is no evidence that he came out of that house, or was found in that house. The charge is that he was a found-in. I am making no finding about whether it was a bawdy house or not. The evidence is he was found in a specifically named premises, which is a certain address on Richmond Street in the City of Toronto. Where is that evidence?¹⁴³

In the instances where there was no question of identity, the RTPC legal team found success in a second line of defence: the lawful excuse defence. In 1981, Section 193 of the Criminal Code (the Bawdy House Law) defined a found-in as someone who “is found, without lawful excuse, in a common bawdy house.” The key phrase, “without lawful excuse,” was exploited by the RTPC defence team, and there were numerous “lawful excuses” used by found-ins in order to cause reasonable doubt. In an interview with Dennis Findlay, the *Body Politic* reported that, “judges have been accepting a variety of explanations from accused persons: a cheap room for the night; sauna used for therapeutic reasons (arthritis, asthma); poor late-night transit service to home in the suburbs; a visit to check gym facilities; newly –painted apartment unpleasant...”¹⁴⁴

The mentality of the accused during his visit to the bathhouse was an important component in determining criminal guilt. This is known in legal terms as the *mens rea*, or the mental willingness to commit a crime. In some of the found-in cases, it was not imperative that the defence provide a lawful excuse. In fact, in at least one case, the trial judge placed this burden on the prosecution to prove that the accused was using the bathhouse for the purposes of a bawdy house. Anyone in the gay community wandering into a bathhouse would have been aware of the space they were walking into. As we saw in

¹⁴³ R. v. Crane, CLGA, RTPC (88-011), Box: 3, File: 40, February 12, 1982: 19-20.

¹⁴⁴ “On the road with the found-in follies,” *Body Politic*, May 1982: 14.

Chapter 4, George Smith and Graham Crawford, while at Parliament discussing Bill C-53, made this very argument in attempting to show that the baths were not a threat to public safety. However, such an assumed knowledge was not enough for the standards of criminal law, and as a result, the trial judges considered that maybe everyone in a gay bathhouse was not there to have gay sex. In one case, Judge C. H. Paris decided:

With respect to the evidence on the trial itself, there is no doubt that the premises – at least, on the evidence we have received in the court today, - there is no doubt that the premises were a bawdy house. And at this point the standard of proof required of the Crown is much greater in that it has to establish its case beyond a reasonable doubt. And I find very important in this case are the following: P.C. James testified, in the swimming pool during those eighteen visits, he saw two acts of sex; he saw no acts of sex in the gym area; he saw no acts of sex where the pool table, I believe, was situated ... the fact that in these three public areas there were no, or very few, acts of sex. And in the absence of any evidence showing knowledge on the part of the accused himself leaves me with a reasonable doubt. And for that reason I dismiss the charge against him.¹⁴⁵

The lawful excuse defence worked as a legal tactic, but for gay liberationists this was seen as a slap in the face to the movement as it denied the sexual freedom contained within the bathhouse. In Duncan's found-in trial on April 5, 1982, the idea of a lawful excuse was presented in addition to two other lines of defence: questioning whether the bathhouse was a bawdy house, and questioning whether Duncan was aware that he was in a bathhouse. Duncan was easily identified by the raiding officers: he drove to the Barracks on February 5, 1981, was parked only a short distance away, and was escorted by a young police officer to retrieve his licence in the midst of the raid. He was not able to use the identity excuse at trial, so he was forced to consider these other options. His trial judge, Justice Baker, refused to consider any of these three other defences, including the lawful excuse defence. At his trial, Duncan's lawyer argued that his client was in the Barracks that night not to have sex, but rather to socialize. This is partly true: Duncan enjoyed socializing at the baths. However, he also enjoyed meeting men to have sex, albeit not in groups and only in private rooms. Duncan recalls that there

¹⁴⁵ R. v. Fontaine, CLGA, RTPC (88-011), Box: 3, File: 40, May 14, 1982: 2-3.

was “resentment of my lawful excuse defence,” from some of the activists involved in RTPC organizing.¹⁴⁶ In spite of this attempt, Duncan was convicted by Judge P. Baker of being a found-in.

Duncan and RTPC lawyer Michael Code opted to appeal the decision in front of County Court Justice J. Gibson. In all three grounds of appeal, Justice Gibson found that the trial judge, Justice Baker, erred in matters of law. On the first ground, Justice Gibson concluded that “the learned trial judge erred in law in simply finding that the premises in question were a ‘common bawdy house,’ in that there is no indication in his reasons that he ever considered or applied the Canadian standard of public decency, or of tolerance, in this case.”¹⁴⁷ The question of determining public decency and tolerance was settled as a matter of law thanks in large part to the charges laid against the *Body Politic* stemming from the 1977 article, “Men Loving Boys Loving Men.” In the legal appeals for that case, the Ontario Supreme Court upheld the 1963 Supreme Court community standards test: “the determination of what is immoral or indecent is to be determined by a judge not by reference to his own standards of indecency or immorality but by reference to a community standard ... the reference to a community standard imports an objective test into the ascertainment of indecency and immorality...”¹⁴⁸

In the other baths, the guilty pleas by keepers settled the (in)decency matter. However, in the case of the Barracks, the legal appeals of the keepers were ongoing, including a failed attempt to appeal to the Supreme Court of Canada on the issue of evidence disclosure.¹⁴⁹ Because Duncan’s trial judge failed to take this into consideration, his conviction was set aside, and Justice Gibson ordered a new trial. Duncan’s new trial never saw a courtroom: the Crown never scheduled a new trial and he never heard of the matter after his appeal.¹⁵⁰ This was considered a victory for the RTPC, and because the

¹⁴⁶ Interview with Duncan, April 20, 2015.

¹⁴⁷ R. v. McLaren, [1982] O.J. No. 3662: 2.

¹⁴⁸ R. v. Popert, [1981] O.J. No. 31.

¹⁴⁹ Hislop et al. and the Queen, [1983] 43 O.R. (2d) 208.

¹⁵⁰ Interview with Duncan, April 20, 2015.

Crown did not schedule a new trial, Duncan was not forced to articulate a “lawful excuse” defence in order to avoid a conviction. The last found-in case was decided on exactly the same points of law as Duncan’s appeal: The Crown did not adequately demonstrate that the accused knew he was in a bawdy house, or knew he was in a place where there were acts of indecency taking place. The only difference between Duncan’s case and this final appeal was timing: since this last case was being decided in 1983, two years after Operation Soap, the appellate judge did not feel it reasonable to order a new trial and thus acquitted the found-in.¹⁵¹

The overwhelming success in defending the found-ins at trial is the direct result of the work of individuals within the RTPC. Of 266 found-in trials, 230 defendants got acquittals. Jack Gemmell, one of the original lawyers from the Law Union to volunteer with the RTPC, won nineteen of his twenty cases. All of Gemmell’s cases were fought on the identity issue, where police officers who took the stand at trial were unable to identify the accused. This was a result of poor documentation on behalf of the officers executing the raids. In many cases, police agents conducting the raid made brief notes on the individuals to whom they were issuing citations. This included a case where the arresting officer noted “blonde hair, blue eyes,” so members of the RTPC legal committee ensured that the courtroom had sufficient blondes in attendance so as to confuse the arresting officer.¹⁵² All nineteen of Gemmell’s victories were won on these courtroom tactics, which were used by most of the other RTPC lawyers.

Gemmell regrets his one loss, which reflected the underlying racism and white privilege present within the RTPC. Dennis Findlay noted that the vast majority of the gay community in Toronto were white, and most of the found-ins were white. Finding a group of white gay men to sit in the gallery of found-in trials was a relatively easy task, and it was always assumed that a suitable group of ‘decoys’

¹⁵¹ R. v. O’Neill, Dennis Findlay Personal Papers, March 1983.

¹⁵² Interview with Dennis Findlay, October 2, 2012.

would be on hand to assist. In another case of an Asian defendant, Richard Fung of Toronto Gay Asians coordinated efforts in the courtroom. Tim McCaskell remembered:

In one case, a young Asian man was the defendant. The RTPC contacted Gay Asians Toronto, and the courtroom was filled with Asian men. When the arresting officer scanned the room from the witness dock, he was unable to pick out the accused. The Crown complained. The defence lawyer asked sweetly whether his honourable colleague meant to suggest that he thought all Asians looked alike. The attorney turned bright red. The judge chuckled. The case was dismissed.¹⁵³

Most of the found-in trials took place in January and February, 1982. Since the vast number of found-in trials taking place were a heavy burden on the courthouse at Old City Hall, some cases were held in Scarborough. This was where Gemmell's one trial defeat occurred, where his Chinese defendant stood alone among a courtroom full of white people. In this instance, it was not difficult for the prosecution witness to identify the accused, and so any potential defense on that basis was not possible. Gemmell still expresses pride at the accomplishments of the RTPC, but this one loss still stays with him.

There were several reasons why some of the men who were charged were ultimately convicted. In some cases, they plead guilty in order to avoid the stress of a lengthy legal process. These men were told that their cases would be handled swiftly and quietly if they would admit to their charges. In other cases, the evidence gathered against the accused proved convincing at trial. This happened in Duncan's instance, in which he was discovered holding a marijuana joint. Some losses, however, were due to defense lawyers who were eager to close the file and gain a quick settlement for their clients. In the case of Ron Rosenes, his lawyer was insistent that he plead guilty so that the matter could be settled and because the Crown had promised that there would be no record or restrictions on travel.¹⁵⁴ In most cases after Operation Soap, lawyers representing found-ins were eager to cooperate with the broader

¹⁵³ McCaskell, *From Homophobia to Homonationalism*, 165.

¹⁵⁴ Interview with Ron Rosenes, June 30, 2016.

legal strategies adopted by the RTPC.¹⁵⁵ Some lawyers, however, were more concerned with closing the case than with a broader political or legal strategy of resistance.

Continuing the Politics of Service: Gay Court Watch

Dennis Findlay was a baker, not a lawyer. He spent countless hours sitting in court, listening and watching found-in trials unfold into victory after victory. From January to March, 1982, 100 found-in trials took place. Of those, 79 were successful. On April 6, as part of the cases that were sent to Scarborough, two found-ins arrived wishing to plead not guilty, but who had not yet contacted the RTPC or a lawyer. With no lawyer present, Findlay volunteered to guide the found-ins through the legal process. By April, Findlay was a familiar face to prosecutors, judges, bailiffs, and other court personnel. This enabled him to serve as a “Friend of the Court”, or otherwise known in legalese as *amicus curiae*. His expertise in watching the found-in trials and in helping craft the legal coordination of the RTPC meant that he could serve the court in this advisory capacity on behalf of found-ins who had no lawyer. In total, Findlay served as a “Friend of the Court” in 12 found-in cases.¹⁵⁶

Bawdy house and indecency charges, up until the formation of the RTPC, were typically routine, boring cases that ended in simple, ‘quiet’ guilty pleas. The sense of shame in violating moral-based provisions of the Criminal Code prevented many from mounting a legal challenge, opting instead to deal with the matter quickly, and quietly. The *Body Politic* argued that until the intervention of the RTPC, found-in charges “had never been extensively fought. By fighting the charges, gay defendants have been igniting a procedure that had previously degenerated into rubber stamping.”¹⁵⁷ In the process of defending against these charges, the RTPC underwent an institutional transformation. Once the

¹⁵⁵ Kinsman, *The Regulation of Desire*, 299.

¹⁵⁶ Interview with Dennis Findlay, October 2, 2012.

¹⁵⁷ “On the road with the found-in follies,” *The Body Politic*, May 1982: 14.

Operation Soap cases worked their way through the courts in early 1982, the RTPC was fully entrenched as a powerful political organization capable of defending members of the community, as well as itself.

There is one instance in particular that demonstrates the presence of this institutional power: The Right to Privacy Foundation successfully sued the *Toronto Sun* for libel. In the May 2, 1982 edition of the *Sun*, columnist (and later editor-in-chief) Barbara Amiel published an article, entitled “Beware these do-gooders,” that made several direct accusations against the Foundation. Amiel referenced a February 26, 1982 letter from the Foundation addressed to the found-ins. In the letter, David Rayside indicated that “the Foundation is prepared to assist anyone who pleads “not guilty” to the charges levelled against him.”¹⁵⁸ Amiel argued that this letter constituted a breach of privacy by the Foundation: “can you imagine the dread flashing through the minds of some of the recipients of these letters as they considered the possibility of their names being discussed or researched by [the RTPC]? And what about those people whose wives or girlfriends or maiden aunts routinely open their mail at home?”¹⁵⁹ Amiel stated that the Foundation should have “avoided contacting found-ins directly,” and that they should have done “everything through lawyers.” In addition to listing the names of the Foundation trustees, Amiel concluded her article with a prayer: “God save us all from the so-called do-gooders of such reprehensible ilk.”¹⁶⁰ The problem for Amiel was the simple fact that the Foundation had indeed sent the letter through the lawyers; no one was contacted directly. There was never any breach to the privacy of the found-ins, and no unsuspecting wives or secretaries discovered the letter. According to the *Body Politic*, “even found-ins who had given their addresses and telephone numbers to the RTPC received these letters through their lawyers.”¹⁶¹ Amiel’s article was thus a complete fabrication, and indeed libelous. Civil lawyer Charles Campbell met with the Foundation Board on May 6, and the

¹⁵⁸ “Letter from David Rayside to Found-ins,” CLGA, RTPC (84-015), Box: 1, File: 2, February 26, 1982.

¹⁵⁹ Barbara Amiel, “Beware these do-gooders,” *Toronto Sun*, May 2, 1982: 12.

¹⁶⁰ *Ibid.*

¹⁶¹ Francis Gillis, “Privacy Foundation set to sue Toronto Sun,” *The Body Politic*, June 1982: 14.

conclusion was that the Amiel article “had potential for discrediting the RTPF within the community.”¹⁶² With the expert help of Campbell, the Foundation pursued a lengthy, expensive libel suit against Amiel and the *Sun*.

The RTPC’s ability to fundraise for the found-in trials was another sign of its institutional power and it was a necessity for mounting a successful libel case. By May 1982, the RTPC raised almost \$90,000, of which over \$63,000 had been disbursed to pay legal fees, mostly for found-ins.¹⁶³ This money was raised primarily through three means: direct solicitation by RTPC volunteers (\$27,687), private donations (\$18,765), and finally, through fundraising campaigns and events organized by the RTPC, including the “Dance Committee.”¹⁶⁴ The fundraising structure of the RTPC created for the found-in trials was used by the Foundation in appealing for help in the libel case. In a July 1984 article in the *Body Politic*, it was reported that the RTPC was turning its focus to raising funds to support the case against Amiel and the *Sun*.¹⁶⁵ It was not until 1986 that the Foundation achieved their settlement with Amiel and the *Sun*. In my interviews with Dennis Findlay, Charles Campbell, and David Rayside, they made it clear that as part of their settlement they were unable to discuss the terms, however, each declared the victory “symbolic.” They held the “media fag bashers” accountable, and were able to do so because of the institutions created in the wake of Operation Soap.¹⁶⁶ After the settlement with the *Sun*, George Smith argued that the victory could be attributed to a “maturity” in the gay community: “This kind of case would not have been undertaken before. What made the difference this time was the kind

¹⁶² “Minutes of Executive Meeting,” CLGA, RTPC (88-011), Box: 4, File: 1, May 9, 1982: 1-2; Interview with Charles Campbell, March 21, 2015; Interview with David Rayside, October 7, 2014.

¹⁶³ George Smith, “RTPC Annual Report,” CLGA, RTPC (88-011), Box: 1, File: 4, May 1982.

¹⁶⁴ The Dance Committee raised over \$8,000 by organizing dances primarily at the 519 Community Centre. These dances were both successful in terms of fundraising, and in providing social space.

¹⁶⁵ Glenn Wheeler, “RTPC trims activities, pursues fundraising,” *The Body Politic*, July 1984: 8.

¹⁶⁶ Ric Taylor, “Sun burned, lips zipped,” *The Body Politic*, March 1986: 13.

of professional people involved, they made the victory possible ... the effort and the outcome of the suit are indicative of how gay politics have evolved.”¹⁶⁷

While the Right to Privacy Foundation was raising funds and defending itself from the *Toronto Sun*, the RTPC’s Legal Coordinating Committee also became institutionalized. Dennis Findlay established Gay Court Watch (GCW) in March 1982.¹⁶⁸ GCW was sponsored by two groups: the RTPC provided volunteers and fundraising opportunities, and the Gay Community Council provided financial assistance. The purpose behind GCW was to continue the work started by the RTPC in the Operation Soap trials. The countless volunteer hours spent in the courtrooms of Old City Hall and in Scarborough meant that the Legal Coordinating Committee had become familiar with the inner-workings of the legal system. This meant they became quasi-experts, but it also meant they saw firsthand just how many indecency charges were being brought against members of the gay community. These “indecent-act” cases, mostly involving washroom, park, or public sex, were prosecuted in similar ways as found-in cases: the shameful defendant took a plea deal to avoid a prolonged battle, the police and Crown attorneys registered their conviction, and it all took place within a matter of minutes. GCW sought to bring the strategies used to resist the bawdy house law to cases involving the indecent act, and gross indecency sections of the Criminal Code. The mission for GCW was threefold. First, they sought to make “contact with as many people as possible coming to court on sex-related charges.”¹⁶⁹ Second, they provided support to members of the lesbian and gay community, regardless of the charges brought against them. Finally, GCW collected statistics and transcripts of indecent act and gross indecency trials coming before the court at Old City Hall. The creation of GCW continued the RTPC’s courtroom work beyond the found-in trials.

¹⁶⁷ Ibid.

¹⁶⁸ “Minutes of Meeting for Gay Court Watch,” CLGA, RTPC (88-011), Box: 4, File: 43, March 20, 1982.

¹⁶⁹ “Gay Court Watch Annual Report,” CLGA, RTPC (1986-002), Box: 1, File: Courtwatch, ND, c. 1984.

As the found-in cases were winding down, it was important for the GCW volunteers to maintain a consistent presence in court. On March 17, 1982, Dennis Findlay officially requested office space at the Old City Hall courthouse.¹⁷⁰ On May 10, Findlay received his response: GCW was granted the use of room 337. GCW, run largely by Findlay, Philip McLeod, and a small group of volunteers, also raised funds. These campaigns were run in conjunction with the activities of the RTPC, but it also received funding from the Gay Community Council, from gay businesses, and from private donors. By 1984, Gay Court Watch had a bank balance of \$5150.¹⁷¹ GCW had an ultimate goal of hiring a staff member to maintain a continual presence in room 337.¹⁷² This goal, however, was never realized. The RTPC had built a firm reputation in the community, and immediately after the Operation Soap trials in Winter 1982 they embarked on a political mission to change the Criminal Code. Operating behind those political struggles was GCW, quietly continuing the mandate of serving members of the lesbian and gay community who had been charged with indecency or bawdy house offenses.

After Operation Soap, the majority of cases revolved around washroom sex and sex in public parks. In Arnold Bruner's study of the police in the wake of Operation Soap, he concluded that those who sought washroom or park sex were often still in the process of coming out, and as a result, desired a more anonymous encounter.¹⁷³ As part of his 1981 investigation, Bruner took a tour of David Balfour Park, a place known for its late night gay sex. Initially on his walk, he did not notice anyone in the park. But as he continued deeper into the darkness, Bruner discovered that "the park, in fact, was alive with men – men walking, men standing, and rarely, shadowy shapes of men who may have been engaged in sex."¹⁷⁴ However, it was not only those who were afraid and in the closet who were interested in sex in

¹⁷⁰ "Letter from Dennis Findlay to David Avery, Court Administrator," Dennis Findlay Personal Files, March 17, 1982.

¹⁷¹ "Minutes of Meeting for Gay Court Watch + appendix of financial statements," Dennis Findlay Personal Files, May 30, 1985.

¹⁷² "Minutes of Meeting for Gay Court Watch," Dennis Findlay Personal Files, September 13, 1983.

¹⁷³ Bruner, 53.

¹⁷⁴ Bruner, 55.

public places. In my interview with Dennis Findlay, he suggested that there is an exciting mystique about the pleasures of sex in nature.¹⁷⁵ Bruner also examined this aspect, suggesting that in many of his interviews he discovered that “part of the attraction of park sex was the sense of adventure found in being outdoors in a natural setting on a warm, dark night.”¹⁷⁶

There were several public parks located in downtown and suburban Toronto that became known as places to meet for gay sex, especially late at night. The police increased their patrols of Hanlan’s Point on Toronto Island, Trinity-Bellwoods Park, and David Balfour Park, as these were known cruising spots for many gay and curious men. In 1975, Gerald Hannon reported in the *Body Politic* that gay men were being harassed “by the Toronto police and morality squad” at Hanlan’s Point, in an effort to “disperse gays from one of the few public places that were comfortably theirs.”¹⁷⁷ Hannon lists several other parks in the city that were beginning to attract attention from the morality squad, including Riverdale Park, Allan Gardens, and Philosopher’s Walk, located at the University of Toronto. In 1979, Brent Hawkes, George Hislop and Peter Maloney argued that the arrests of gay men in Trinity-Bellwoods Park was linked to Staff Sargent Tom Moclair, who supervised patrolling officers in the same Division (14) as the park.¹⁷⁸ As we saw, Moclair was the author of the March 1979 article “The Homosexual Fad,” an offensive review of Toronto’s gay community published in the Metropolitan Toronto Police Association’s *News and Views* newsletter. David Balfour Park became a place of controversy in 1980 when a Metropolitan Toronto Police Officer discharged his firearm (he shot two bullets) while arresting five men who were found in the park having sex late one August night.¹⁷⁹

¹⁷⁵ Interview with Dennis Findlay, October 2, 2012.

¹⁷⁶ Bruner, 56.

¹⁷⁷ Gerald Hannon, “War on sin produces gay casualties,” *The Body Politic*, October 1975: 8.

¹⁷⁸ “Presentation by Brent Hawkes, George Hislop, and Peter Maloney to the Metropolitan Toronto Board of Commissioners of Police,” CLGA, RTPC (1984-002), Box: 1, June 28, 1979: 37.

¹⁷⁹ Chris Bearchell, “Shoot-up in David Balfour Park: Cops use bullets to arrest 5,” *The Body Politic*, October, 1980: 13.

There were several public washrooms located in downtown Toronto that became known as places to meet for gay sex, and the police used this information to conduct entrapment operations. According to Steven Maynard, the Metropolitan Toronto Police have been arresting men for washroom sex since the late nineteenth century. Utilizing the ideas of Michel Foucault, Stephen Maynard argues that the “surveillance of sex between men” by the police and the Morality Department in public washrooms was “a policing of sex based not solely on repression but on the productive regulation of sex through various technologies of surveillance and through the production of sexual knowledge.”¹⁸⁰ In other words, when gay sex occurred at Hanlan’s Point, it was not constructed as deviant behaviour until a morality agent went looking for it. It first must be constructed as deviant by some external source. In the cases of entrapment in TTC washrooms, or in the washroom at the Royal York Hotel, police officers went to great lengths to produce indecent behaviour.

The policing of washroom sex not only involved surveillance through special walls and peepholes (such as those used at the Parkside Tavern or in the TTC), it also involved police officers enticing gay men into indecent acts. GCW followed a 1986 case of washroom indecency at the Royal York Hotel. During the trial, the undercover police officer testified that when he and his partner entered the washroom to conduct surveillance, a man was using one of the urinals. The undercover agents took urinals on either side of the man, and then began looking at the man. After several seconds, the man began to masturbate. The undercover officer testified that he watched the man masturbate at the urinal beside him for “approximately 30 seconds.”¹⁸¹ After the undercover agents left the washroom, they waited for the man and arrested him for indecency. In my interview with Dennis Findlay, he remembers that men who were entrapped in this way were often sexually enticed by the undercover

¹⁸⁰ Maynard, 209.

¹⁸¹ “Transcript of Testimony, Q v. Pace,” Dennis Findlay Personal Files, July 8, 1986: 4.

agents.¹⁸² There was a 30-second gap in the police officer's testimony that likely included indecent behaviour on the part of the officers themselves.

GCW utilized the institutional power created after the bath raids to fight these types of indecency charges beyond advising defendants on their rights and pairing them with potential lawyers. For one, they made use of office 337 to collect transcripts and statistics to report back to the RTPC and to the *Body Politic*. For example, from summer 1982 to summer 1983, GCW found 532 cases in Toronto courts where a gay man was charged with committing an "indecent act".¹⁸³ By 1985, with the help of donated computer equipment, GCW was able to keep more detailed statistics, including the types of charges laid and the various sentences imposed on guilty defendants by the different judges.¹⁸⁴ By keeping track of these cases, members of GCW were able to determine patterns and areas of enforcement. For instance, in 1983 it became apparent that the Bloor Street branch of the Bay department store was asking Metropolitan Toronto Police to conduct undercover operations in their washrooms. GCW and the RTPC coordinated efforts with Alderman Jack Layton, who had been sympathetic to RTPC efforts immediately in the wake of Operation Soap.¹⁸⁵

In an April 26, 1983 letter to the general manager of the Bay, Layton urged the store to consider other alternatives to entrapment by police. One of the gay men who was charged at that location reported to Layton that the undercover agent was cruising him: "I left the washroom and he was cruising me outside. I went back in, was cruised, and then arrested."¹⁸⁶ Layton argued that by using this

¹⁸² Interview with Dennis Findlay, October 2, 2012.

¹⁸³ "GCW Minutes of Meeting," Dennis Findlay Personal Files, September 13, 1983.

¹⁸⁴ "GCW Minutes of Meeting," Dennis Findlay Personal Files, May 13, 1985.

¹⁸⁵ Layton represented the Working Group on Police-Minority Relations at the February 12, 1981 meeting of the Toronto Police Commission. This meeting was a heated exchange between community members and the police, occurring one week after Operation Soap. "Flashback: Metro Police Commission," in *Action!* (RTPC Flyer), CLGA, The Body Politic (1983-009), Box: 3, File: Gay Community Leaflets, March 1981: 4.

¹⁸⁶ Letter from Jack Layton to George Kosich, Dennis Findlay Personal Files, April 26, 1983: 1.

entrapment technique, the police created “a crime where one needn’t have taken place.”¹⁸⁷ Layton and the RTPC were not intent on making washroom sex a norm; in his letter to the Bay, Layton stated, “perhaps some have been under the impression that this kind of washroom activity has been encouraged by gay organizations, but I want to assure you that this is not the case.”¹⁸⁸ Instead of utilizing police forces, the idea was to post warning signs on washroom doors, and to hire uniformed security to patrol washrooms where there were complaints. George Kosich, the general manager for the Bay, responded with the claim that there had been “numerous [*sic*] complaints from our customers when illegal acts are committed in these premises, sometimes in front of children. Many of our customers and children have been accosted.”¹⁸⁹ Kosich concluded his response by declaring that the police “are the qualified and logical organization to assist us with this problem.”¹⁹⁰

Given this obfuscation by the Bay and by the police, GCW brought this issue to the attention of the court. In November 1983, Judge Paris convicted a man of committing an indecent act in the third floor washroom of the Bay. In his judgement, Paris acknowledged the prosecution’s request to hand down a harsh sentence, “designed to show our reprobation for such conduct and to discourage others from committing similar offences.”¹⁹¹ However, during the trial Paris heard evidence that those brought to court for washroom sex were usually in court as a first-time offender, and, in a sign of empathy, declared that “more often than not, the individual is a closet gay living in fear of being exposed ... he is condemned to quick and impersonal sex. Understandably, his arrest and prosecution has shattering effects.”¹⁹² Paris ultimately rejected the prosecution’s request for a harsh sentence, and granted a conditional discharge with probation (the terms of which meant that the accused could not go into the

¹⁸⁷ Ibid.

¹⁸⁸ Ibid, 2.

¹⁸⁹ Letter from George Kosich to Jack Layton, Dennis Findlay Personal Files, June 7, 1983.

¹⁹⁰ Ibid.

¹⁹¹ “Reasons for judgment: Q v. Sulit,” CLGA, RTPC (88-011), Box: 1, File: 18, November 23, 1983: 4.

¹⁹² Ibid, 3.

Bay). In concluding his judgment, Paris reflected on the fact that “alderman Layton and members of the gay community tried separately to approach the Bay in order to discuss solutions.”¹⁹³ Instead of attempting any alternatives, the Bay decided to use the police to entrap gay men in what Judge Paris called a “turkey shoot.” Such a statement from the bench reflects the respect garnered by gay activists in GCW in the hallways and courtrooms at Old City Hall. GCW tracked and aided indecent act cases in parks and washrooms, but it was also ready to assist when the last of the Toronto bathhouse raids occurred at the Back Door Sauna on April 20, 1983.

All of the gay institutions that were created as a result of Operation Soap sprang into action immediately as the raid began against the Back Door. The RTPC called lawyer Bob Kellerman, who arrived on the scene as the raid was still unfolding. Merely two days after the raid, David Rayside sent out a fundraising letter, seeking to aid in the legal costs of mounting a defense from the raids.¹⁹⁴ The Citizens Independent Review of Police Action (CIRPA), which included members of the RTPC, was also immediately on scene to ensure that the police were professional in their execution of the raid. The *Body Politic* reported that unlike in the Barracks during Operation Soap, the police did not use offensive language, epithets, or allusions to gay persecution in the holocaust.¹⁹⁵

The police were far more prepared in the execution of their 1983 raid of the Back Door than in the Operation Soap raids. For one, this raid was conducted by the Morality Squad (the more brutish Intelligence Bureau conducted the Operation Soap raids), which had “a reputation for thorough information-gathering and presentation of evidence.”¹⁹⁶ Police officers used Polaroid cameras to avoid the RTPC legal tactic of questioning the identification procedure of found-ins. They also obtained a

¹⁹³ Ibid, 5.

¹⁹⁴ “Dear Friend, letter from the Right to Privacy Foundation,” CLGA, RTPC (1986-002), Box: 1, File: Letters, April 22, 1983.

¹⁹⁵ Tom Stroud, “Back to the baths, back to the streets,” *The Body Politic*, June 6, 1983: 9.

¹⁹⁶ Ibid.

search warrant, which specified which rooms they should search, and what items they should seize. In what is a certain sign of the RTPC's influence, all of this was done with the consultation of Crown attorneys, who worked to ensure that any loopholes utilized by the RTPC defence team would be closed. The onerous amount of work required to ensure that they had obtained enough evidence was overwhelming for the raiding officers, and so one of the immediate effects of the RTPC's activities was that only one-third of the people in the bathhouse that night were charged: instead of upwards of 30 charges, only nine bawdy house charges were laid against found-ins and keepers. The raiding officers and the Crown attorneys were certain that this time, the trials would be a clean, open-and-shut, and supported with indisputable evidence.

Unfortunately for the Morality Squad, the RTPC, RTPF, and GCW were ready to handle the cases. Most detrimental to the prosecution was that the warrant obtained by the Morality Squad was challenged in court by RTPC lawyers Jack Gemmell and Dianne Martin. The Canadian Charter of Rights and Freedoms came into effect on April 17, 1982, just more than a year prior to the Back Door raid. Included in the Charter is section 8, which protects individuals from "unreasonable search and seizure."¹⁹⁷ The problem was within the Criminal Code itself. Section 181 of the Code provided special provisions for obtaining a search warrant to investigate a gaming house, betting house, or a bawdy house. These provisions were different than the standard set for obtaining a search warrant elsewhere in the Code, namely, section 443.¹⁹⁸ The main difference between these two sections was that for obtaining a search warrant on a bawdy house in section 181, a judicial officer only needed to be confident that the police officer truly believed he had reasonable grounds that illegal activity was taking place. Ordinarily, under section 443, a police officer must swear an oath to the facts of the application

¹⁹⁷ *Canadian Charter of Rights and Freedoms*, s 8, Part I of the *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982* (UK), 1982, c 11.

¹⁹⁸ *Criminal Code of Canada*, S.C. 1953-54, c. 51.

in the search warrant, whereas this was not required for bawdy houses. Also, under section 443, a justice is required “to be satisfied that there are reasonable grounds for belief that an offence is being committed on the premises.”¹⁹⁹ In other words, in all other search warrants, a justice must be convinced that the facts given under oath provide reasonable grounds of search and seizure, whereas in searching a bawdy house, a justice does not need to require an oath, and a justice only needs to be convinced that the police officer believed he had reasonable grounds.

For Justice J. Henry of the Ontario Supreme Court, there was “no cogent, let alone demonstrable, reason for the special provision advanced either in evidence or in argument ... there is no logic or persuasion in it; it is an unexplained aberration, an oddity.”²⁰⁰ With the stroke of a pen, section 181 of the Criminal Code was declared “of no effect” in the province of Ontario, the search warrant against the Back Door was quashed, and all property was to be returned to the owners.²⁰¹ Ultimately, all of the charges against the found-ins at the Back Door were dropped. In his reflection on “1984: A year in review,” David Rayside stated that when the Back Door trials were to proceed on December 17, “at the last minute, it became clear that the Crown prosecutors wanted to be rid of the cases. With only a minor fine levied against the former owner of the bath, the cases suddenly vanished.”²⁰²

The owners of the Barracks also had their charges dropped after years of legal wrangling. After owner Jack Campbell surprised everyone and pleaded guilty in Fall 1981, the fate of the other owners was in doubt, particularly because they were facing serious charges of criminal conspiracy. The legal issue in the case was the admissibility of evidence of conspiracy presented by Garry Carter at a preliminary inquiry. This evidence was ultimately ruled valid by a September 14, 1983 ruling at the

¹⁹⁹ R v. Vella, [1984] O.J. No. 490: 7.

²⁰⁰ Ibid, 22.

²⁰¹ Ibid, 25.

²⁰² David Rayside, “1984: Year in review for the Right to Privacy Foundation,” CLGA, RTPC (88-011), Box: 1, File: 1, ND c. January 1985.

Ontario Court of Appeal.²⁰³ In spite of this, the *Body Politic* reported that “the Crown apparently did not have enough confidence in the strength of its case to proceed.”²⁰⁴ Owner Raymond Diemer pleaded guilty to keeping a common bawdy house at the Barracks, and was fined \$30,000. Jerry Levy pleaded guilty to keeping a common bawdy house at the Club Baths, and was fined \$8,000.²⁰⁵

The conclusion of these legal cases meant an organizational shift for the RTPC. Findlay was RTPC Chair in 1984, and called a general meeting for May 22. At this meeting, various options were discussed between the various activists still in the Committee, most notably Findlay, Rayside, Gary Kinsman, George Smith, and Graham Crawford. At this meeting, the group ultimately decided to suspend the constitution and to hand control to a steering committee headed by Rayside. This steering committee had to hold at least one general meeting per year to update the community on activities.²⁰⁶ Gay Court Watch would continue as a separate organization until at least 1987.²⁰⁷ With participation at an all-time low, the RTPC returned to its pre-Operation Soap roots as a small group of dedicated activists. Rayside remembers that although this was a transition for the group, the RTPC carried a reputation in the community and among local and provincial politicians.²⁰⁸

The RTPC embarked on several focussed campaigns after its constitution was suspended and the steering committee took control. As HIV was a growing crisis in Toronto, many activists from the RTPC joined in AIDS advocacy groups. McCaskell remembered that “AIDS was conceptualized as the crisis that followed the bath raids, and ACT [AIDS Committee of Toronto] first modelled itself after the RTPC ... Like the RTPC, ACT focused a new wave of energy and a new coalition.”²⁰⁹ ACT, which was formed in 1983,

²⁰³ Hislop et al. and the Queen, [1983] 43 O.R. (2d) 208.

²⁰⁴ Lee Waldorf, “Club/Barracks conspiracy charges dropped,” *The Body Politic*, November 1984: 9.

²⁰⁵ *Ibid*, 10.

²⁰⁶ “Minutes of RTPC Annual General Meeting,” CLGA, RTPC (88-011), Box: 1, File: 4, May 22, 1984: 6.

²⁰⁷ “Minutes of Meeting of Gay Court Watch Committee,” Dennis Findlay Personal Files, January 27, 1987.

²⁰⁸ Interview with David Rayside, October 7, 2014.

²⁰⁹ McCaskell, *Queer Progress*, 190.

maintained a working relationship with the RTPC.²¹⁰ The RTPC mission to defend bathhouse sex was linked to issues of HIV and other sexually transmitted infection. Incidentally, one of the men arrested in Operation Soap was Robert Trow, who was providing service that night for the Hassle Free Clinic.²¹¹ Bathhouses have often viewed as spaces of high infection potential, but since the 1990s many public health officials have turned to the prevention and education potential of these sexual spaces, particular with a focus on HIV.²¹²

In November 1985 the RTPC created the AIDS Subcommittee as a result of Ontario insurance companies using AIDS antibody tests to screen applicants for life insurance. The tests were conducted “often on the mere suspicion that the applicant was gay, and without his knowledge or consent. A clear violation of the individual’s right to privacy.”²¹³ The *Globe and Mail* attended the November 27 RTPC news conference, and reported that it was the Manulife Insurance Company conducting the tests. Manulife defended the practice, arguing “the test is merely ‘one instrument of many criteria’” used to determine eligibility for life insurance.²¹⁴ The RTPC submitted briefs to the Ontario Bar Association and the Superintendent of Insurance in an effort to end the practice.²¹⁵ The institutional strength of the RTPC represents one reason why Toronto bathhouses were not closed in the wake of the AIDS crisis. Toronto avoided the controversies that beset the San Francisco bathhouses through the 1980s, in which a moral panic over HIV caused public health officials to ban the operation of these spaces.²¹⁶

²¹⁰ “Letter from the RTPC to the AIDS Committee of Toronto,” CLGA, RTPC (88-011) Box: 1, File: 11, January 20, 1984.

²¹¹ Rick Bébout, *Promiscuous Affections: A Life in the Bar, 1969-2000*, [online] <http://www.rbebout.com/bar/1981.htm>

²¹² Spielberg et. al, “Designing and HIV Counseling and Testing Program for Bathhouses: The Seattle Experience with Strategies to Improve Acceptability,” *Journal of Homosexuality*, 44:3/4 (2003): 205.

²¹³ “New Crisis, New Mandates,” CLGA, RTPC (88-011) Box: 1, File: 4, n.d.

²¹⁴ Susan Delacourt, “Homosexual group to challenge AIDS screening by insurance form,” *Globe and Mail*, November 28, 1985.

²¹⁵ “New Crisis, New Mandates.”

²¹⁶ See Christopher Disman, “The San Francisco Bathhouse Battles of 1984,” *Journal of Homosexuality*, 44:3/4 (2003): 71-129.

In 1985, the RTPC established the Equality Rights Subcommittee, which was tasked with lobbying the provincial government to include sexual orientation in the Ontario Human Rights Code. The RTPC had used the language of rights since its inception. As we saw in Chapter 1, the choice in the words “right to privacy” was deliberate, and contentious. When the RTPC presented “Our Police Force Too!” before the Metropolitan Toronto Board of Commissioners of Police, they argued in favour of including sexual orientation in the Code. They cited the 1978 Ontario Human Rights Commission “Life Together” report, which advocated in favour of adding sexual orientation and disability to the Code.²¹⁷ McCaskell argued that this was due to a “horizontal” alliance between queer and disability activists.²¹⁸ George Smith was not enthusiastic about human rights campaigns, believing them to distract from the root of queer oppression.²¹⁹ However, the Public Action Committee (PAC) mobilized in 1981 when the Progressive Conservatives moved to amend the Code. John Bodis, on behalf of the RTPC and the Coalition for Gay Rights in Ontario (CGRO), wrote a letter to the Mayor’s Committee on Race Relations urging them to recommend that the province include sexual orientation in the Code.²²⁰ In spite of a last-minute attempt by Liberal MPP Sheila Copps to amend the bill, sexual orientation was left out of the Code. One queer activist, Del Mansell, protested by handcuffing himself to the railing in the gallery of the provincial legislature, Reverend Brent Hawkes joined him soon after.²²¹ After the defeat of the Progressive Conservatives in the 1985 election, the governing Liberals introduced an amendment to the Human Rights Code. The RTPC and CGRO joined forces yet again to demand its inclusion, and to conduct a letter-writing campaign to counter a similar strategy adopted against inclusion by religious groups. According to Tom Warner, “about twelve hundred people attended a CGRO-RTPC rally just days

²¹⁷ “Our Police Force Too!” CLGA, *The Body Politic* (1983-009), Box: 3, File: Bath Raids Update, April 5, 1979: 26.

²¹⁸ McCaskell, *Queer Progress*, 118.

²¹⁹ “Summary of discussion at the RTPC policy conference,” CLGA, RTPC (1984-002), Box: 1, File: 2, May 4, 1980.

²²⁰ “Letter from RTPC to the Mayor’s Committee on Race Relations,” CLGA, RTPC (88-011), Box: 2, File: 23.

²²¹ McCaskell, *Queer Progress*, 165.

before the vote on the final reading.”²²² Bill 7, which added sexual orientation to the Code, passed “by a vote of 64 in favour and 45 opposed.”²²³ With this victory, the RTPC generally ceased political activities and faded by 1988. A final meeting of the RTPC was called for February 9, 1991, where it was reported that \$224,724.36 had been raised since its creation in 1979.²²⁴ With around \$7,000 left in the bank, the group decided to create an annual award administered by the Gay Community Appeal.²²⁵

Conclusion: Creating a Community Through Service

Operation Soap was a resounding failure from the perspective of the police and the Crown attorneys associated with prosecuting bawdy house and indecency cases. The few and infrequent times they were successful in obtaining a conviction against a member of the gay community, the cost to the taxpayer was significant and the punishment often a mere slap on the wrist. When it came to the heavier trials of the keepers, the financial weight of the gay business community burdened appellate courts with constitutional challenges. From the perspective of a police officer or a Crown attorney, as of 1981 bawdy house cases were no longer open and shut. After the search warrant was quashed in the 1983 raid on the Back Door Sauna, bawdy house raids against gay bathhouses in Toronto ended.

The Metropolitan Toronto Police did not suddenly eliminate homophobia from the upper ranks of the Morality and Intelligence divisions. Nor was this change a result of Criminal Code liberalization, as this effort failed in summer 1982. Instead, the bath raids stopped because of the resisters to social control within the Right to Privacy Committee, the Right to Privacy Foundation, and Gay Court Watch. These individuals reinvented the RTPC in the wake of Operation Soap, and placed the focus back on the found-ins. The political power from street demonstrations and the work of activists, artists, lawyers,

²²² Tom Warner, *Never Going Back: A History of Queer Activism in Canada*, Toronto: University of Toronto Press, 2002: 198.

²²³ *Ibid*, 199.

²²⁴ “Minutes of Final Meeting,” CLGA, Right to Privacy Foundation (92-185), Box:1, File: RTPC Close-up, February 9, 1991.

²²⁵ “Minutes of Meeting,” CLGA, Right to Privacy Foundation (92-185), Box:1, File: RTPC Close-up, February 12, 1991.

bakers, and scholars from the across the city was channelled into the successful legal defense of almost 90 per cent of the found-ins charged in Operation Soap. This remains one of the most important legacies of the Toronto bathhouse raids, and the RTPC. George Smith constructed an organization in which all activities would mobilize and politicize the community. Sub-groups, including Gay Court Watch and Gay Street Patrol, fostered a social network of political resisters. Community service became an important part of the broader campaign for reform of the criminal justice system and the human rights code.

Conclusion: The Legacy of the 1981 Bathhouse Raids

Searching for the 'Smoking Gun'

On June 22, 2016, in the middle of Toronto's pride festivities, Toronto Chief of Police Mark Saunders issued a statement of "regret" for the Operation Soap bathhouse raids.¹ The Chief paired his remarks with a pledge to open an all-gender washroom at police headquarters, a token of support for the trans community. For the most part, however, the supposed apology was underwhelming. I heard one man standing nearby ask in bewilderment, "he 'regrets' the bath raids? What does that even mean?" Former RTPC chair Reverend Brent Hawkes initiated the idea for an apology, and did not anticipate the reaction regarding the use of the term "regret."² A woman standing in front of me quietly decried, "what about the Pussy Palace?" With no acknowledgement of the 2000 raid on the lesbian bathhouse event, she then turned and left the event. The Pussy Palace was supposed to have been part of this process, but the women who were arrested decided to turn down the apology. According to Chanelle Galant, one of the women arrested, the Pussy Palace group appreciated the apology for the Operation Soap raids, and believes "that it speaks to an improved relationship between some members of the LGBTQ and police."³ However, the group argued that for some members of the queer community, especially oppressed racial groups, the time for incremental change must give way to a revolution in policing. Gallant concluded by stating, "I believe that the police should be defunded and that funds should be redirected into community services that keep us safe."⁴

¹ Patty Winsa and Robin Levinson King, "Toronto Police Regret 1981 Bathhouse Raid, says Chief," *Toronto Star*, June 22, 2016 [online], <https://www.thestar.com/news/gta/2016/06/22/toronto-police-regret-1981-bathhouse-raid-says-chief.html>

² Interview with Brent Hawkes, August 31, 2016.

³ Leyland Cecco, "Activist on declining Toronto Police apology for 1981 bathhouse raids," *Globe and Mail*, June 24, 2016 [online] <http://www.theglobeandmail.com/news/toronto/activist-on-declining-toronto-police-apology-for-1981-bathhouse-raids/article30615625/>

⁴ Ibid.

For some, the apology was a meaningful statement by the city's top police official. Tony Fay believes that this helps him and some of the others who were arrested in 1981 to have closure.⁵ With a statement of regret, men like Duncan, Ron, and Arthur can live in peace knowing that they should have been free to continue their social and sexual interactions within the privacy of a bathhouse on the night of Operation Soap. Another former RTPC chair, Dennis Findlay, stated that the apology was "a long time coming."⁶ After the 1979 *News and Views* controversy, in which the Metropolitan Toronto Police Association newsletter published two offensive articles aimed against visible minorities and the queer community, Police Chief Harold Adamson issued a Declaration of Concern and Intent. This statement failed to include the queer community, thus refusing to acknowledge that Toronto queers represented a legitimate minority. Police Chief Jack Ackroyd hesitantly accepted the recommendation of the Bruner Report to update the Declaration to include the lesbian and gay community. Thirty-five years later, the police have expressed their regrets. But what now? Does this apology mean that the police have been held accountable for Operation Soap? Do we have all of the answers?

The Bruner Report continues to be the closest document we have to an independent inquiry into the bathhouse raids. However, Bruner's mandate was a double-edged sword. He was forced to focus on an overall study between the queer community and Toronto police. On the one hand, this broad approach, which included investigative trips to San Francisco and Vancouver, enabled Bruner to find the intersectionality between policing queers and the policing of racial minorities. With detailed research, he was able to take an overview of the Toronto's diverse queer community. The question of community legitimacy was finally resolved. On the other hand, the legal proceedings of the keeper and found-in trials prevented Bruner from conducting a thorough analysis of Operation Soap. There are

⁵ Interview with Tony Fay, March 5, 2016.

⁶ Patty Winsa, "Toronto Police to Apologize for 1981 Bathhouse Raids," *Toronto Star*, June 21, 2016 [online] <https://www.thestar.com/news/insight/2016/06/21/toronto-police-to-apologize-for-1981-bathhouse-raids.html>

many unanswered questions regarding the specific police practices that initiated the investigation, oversaw its development over a six-month period, and resulted in a mass raid by more than 200 officers. The community received its apology, but it has not received its explanation.

There have been several ideas about who was responsible for the raids. This dissertation offers no theory on this question. The RTPC under Hawkes and Peter Maloney argued that this was an issue of homophobic sergeants and police brass. John Alan Lee began his tenure by shifting the focus to provincial Attorney General Roy McMurtry. Finally, George Smith rejected these theories and placed the blame on the text of the Criminal Code. During the police apology, Tim McCaskell postulated, “it would be interesting to know who did give the order ... let’s have some real truth here.”⁷ In 2009, historians Johnathan Ned Katz and David Carter obtained police records for the 1969 Stonewall Riot in New York City.⁸ Using freedom of information requests, these historians have obtained and published online nine police documents related to the riots.⁹ Of Operation Soap, there are two known police documents: the records of PC James in his undercover operations of the four bathhouses starting in August 1980, and an internal police memo from Staff Inspector Donald Banks to Chief Ackroyd in the weeks following the raids. Freedom of information requests for additional police documents should be considered a future avenue of historical research on this topic. Such a revelation would be meaningful for those who agree with Hawkes/Maloney or Lee, but it may also enlighten the exact process of how the Metropolitan Toronto Police linked the bathhouses to the bawdy house law as described by George Smith.¹⁰

⁷ Ibid.

⁸ Sewell Chan, “Police Records Document Start of Stonewall Uprising,” *The New York Times*, June 22, 2009 [online] <http://cityroom.blogs.nytimes.com/2009/06/22/police-records-document-the-stonewall-uprising>

⁹ Johnathan Ned Katz, “Stonewall Riot Police Reports,” June 2009 [online] <http://www.outhistory.org/exhibits/show/stonewall-riot-police-reports>

¹⁰ George Smith, “Policing the gay community: an inquiry into textually-mediated social relations,” *International Journal of the Sociology of Law*, 16 (1988): 262.

Canada's Stonewall?

The violent and chaotic interactions between the queer community and police through the bath raids are reminiscent of the 1969 Stonewall riot. This comparison has been made by numerous commentators and activists in the 35 years since Operation Soap.¹¹ In both the 1981 bathhouse raids and the 1969 Stonewall raids, the emerging queer communities responded by rebelling in the streets. They galvanized a political movement of sexual liberationist politics in a direct confrontation with police. But this is where the comparison ends. Labelling the 1981 Toronto bathhouse raids “Canada’s Stonewall” helps to emotionally identify the affect of the event. In each case, the historical legacy is often referred to as, ‘monumental change,’ or, ‘a turning point.’ While some of the differences between the two events are just fodder for cantankerous academics, some of these distinctions are important to our collective understanding of the historical legacy of Operation Soap.

Operation Soap must be situated within the context of Stonewall, not separate from it. The comparison ignores the influence of the events surrounding Stonewall on the sexual political consciousness of activists who were part of the RTPC. Stonewall occurred at the end of the 1960s, a time of innovation in political protest. Queer activists ten years later used these experiences to resist the bath raids. John Alan Lee, for example, modelled his August 1979 sit-in at the office of Roy McMurtry after the “zaps” organized by the Gay Activists Alliance in post-Stonewall New York City.¹² New sexual liberation movements were forming in major North American cities in the time around the Stonewall riot, including Vancouver, Toronto, and Montreal. According to Catherine Nash, the early

¹¹ Graham Slaughter, “‘The Canadian Stonewall:’ Toronto police ‘expresses its regret’ for gay bathhouse raids,” *CTVNews*, June 23, 2016 [online] <http://www.ctvnews.ca/canada/the-canadian-stonewall-toronto-police-expresses-its-regret-for-gay-bathhouse-raids-1.2956225>; Queer Story, *The Barracks: 1981* [online] <http://www.queerstory.ca/project/the-barracks-1981/>; Jamie Bradburn, “Historicist: Raiding the Bathhouses,” *Torontoist*, June 26, 2011; Christine Beckermann, “The radical roots of Pride,” *rabble.ca*, May 28, 2010; Daniel Schwartz, “Does Pride need to get more political about LGBT rights?” *CBC News*, June 24, 2015; Nicholas Keung, “The new faces of gay activism,” *Toronto Star*, June 26, 2011;

¹² David Carter, *Stonewall: The Riots that Sparked the Gay Revolution*, New York: St. Martin’s Press, 2004: 244.

1970s was a radical liberationist phase that brought rapid community formation.¹³ By the late 1970s, this included an increasingly visible gay business sector, which favoured a more liberal moderate approach to activism.¹⁴ The Stonewall was an illegitimate bar owned by the mafia.¹⁵ This stands in contrast to the bathhouses owned by gay entrepreneurs including Peter Maloney and George Hislop. 'Rights' became an accessible and desirable political goal for the post-Stonewall sexual liberation movement. As a symbol of this, the group formed in response to Stonewall was the radical Gay Liberation Front, whereas the group that responded to Operation Soap was called the Right to Privacy Committee. Stonewall was a riot that lasted four days, but in the case of the bath raids the RTPC organized groups of seasoned protest marshals to channel the rage of thousands of people, and to keep the peace, relatively speaking. The RTPC protests were coordinated and planned, albeit several with only a few hours notice. These differences demonstrate that in 1981 the queer political community took an institutional form that was not present in 1969.

The bathhouses were raided because of sexual acts that were constructed as indecent, whereas the Stonewall Inn was raided due to violations of gender expression. According to David Carter, New York City's three-piece rule meant that patrons of any establishment serving liquor had to be wearing at least three articles of clothing conforming to their biological sex.¹⁶ This differs from the interpretation of indecency in the bawdy house law. Gender expression was a central component of the struggle against the Stonewall raid, whereas acts of sex interpreted as indecent was a central component of the struggle against the bath raids. The Stonewall was a space of intersectionality between gender, race, and class. In the wake of the bathhouse raids, this intersectionality had to be developed through

¹³ Catherine Nash, "Toronto's gay village (1969-1982): plotting the politics of gay identity," *The Canadian Geographer*, 50:1 (2006): 1-16.

¹⁴ Catherine Nash, "Consuming Sexual Liberation: Gay Business, Politics, and Toronto's Barracks Bathhouse Raids," *Journal of Canadian Studies*, 48:1 (2014): 83.

¹⁵ Carter, *Stonewall*, 79.

¹⁶ *Ibid*, 15.

political alliances. Women's groups, lesbians, and members of the black community stood as allies of the RTPC. The bath raids became the face of police oppression against the queer community, but this sometimes meant the exclusion of lesbians and queers of colour. Groups including the Lesbian Organization of Toronto, and Lesbians Against the Right, raised issues of police brutality and harassment that went beyond the scope of gay male sexual spaces. The Stonewall was raided based on the three-piece rule and the New York Alcohol Beverage Control Law. This means the raid on the Pussy Palace in 2000 makes a better comparison to Stonewall, because the Pussy Palace was also raided on a violation of liquor laws. The bathhouse raids, unlike Stonewall, was a national issue. Bawdy house raids occurred in Montreal, Ottawa, Toronto, and Edmonton. Stonewall occurred during a time in which there were no protections for queer people. In the era of the bathhouse raids, it was a common belief that sex between consenting adults was legal.

Rethinking 'Decriminalization' in the 1969 Omnibus Bill

The Omnibus Bill requires further study by Canadian historians. The rhetoric of "there's no place for the state in the bedrooms of the nation," as articulated by Pierre Trudeau in 1967, did not match the actual legislative change under Bill C-150 in 1969. Canadian culture has accepted this Liberal Party selling point that their party was responsible for decriminalizing homosexuality. The problem with this rhetoric is that homosexuality, or in legal terms 'gross indecency', was not removed from the Criminal Code. Instead, queer sex was still considered grossly indecent, provided it took place under a strict set of circumstances; restrictions that did not apply to heterosexual couples. Under the "exception clause," queers were permitted to have sex in private, with an adult who was at least 21 years old, and provided only two people were present. This change was condemned by an emerging community of queer activists across Canada, culminating in protests in Ottawa and Vancouver in August 1971. At this protest, queers articulated a critical view of the Omnibus Bill, and declared that there was no victory, but that instead, the battle had only just begun.

The 1969 reform did not identify or address the other areas of the Criminal Code that regulated queer sexuality. The 'exception clause' to gross indecency and buggery was the extent of Trudeau's decriminalization, and there were no changes to many of the other sections of the Code adopted by moral reformers in the late 19th and early 20th centuries. For example, the Omnibus Bill maintained the 1917 definition of a bawdy house, which was expanded to include not only places of prostitution, but also places that allowed "acts of indecency." The Trudeau Liberals had an opportunity to move forward with further incremental change in 1982 with Bill C-53.

During the deliberations over C-53, Chrétien made it clear to the Standing Committee on Justice and Legal Affairs that there was a missed opportunity to remove gross indecency in 1969. Their own Law Reform Commission had recommended that 'anachronistic' language such as "gross indecency" and "indecent act" be removed from the Code. Instead, the Liberals bowed to religious pressure and wavering support by some Liberal Members of Parliament, including Ken Robinson. For the legacy of the Omnibus Bill, this discrepancy between the rhetoric of the Just Society and the actual legal change represents a problem. Recently, Prime Minister Justin Trudeau has indicated that he will pardon Everett George Klippert. This is an ideal opportunity to finally implement the Criminal Code reforms advocated by "We Demand" in 1971 and by George Smith in 1982.¹⁷ Politics only represents one aspect of this. More important is understanding the power behind the opposition to removing or liberalizing gross indecency in the wake of the bathhouse raids. A tension exists between this liberal notion of personal liberty and the pervasive social and cultural systems of sexual regulation.

¹⁷ See Tom Hooper, "Trudeau Should Pardon Bath Raid Victims," *Activehistory.ca*, March 9, 2016 [online] <http://activehistory.ca/2016/03/bath-raid-victims-should-also-be-pardoned/>

Cleaning Queer Sex – Mononormativity and the Marriage Debates

The concept of mononormativity by Marianne Pieper and Robin Bauer helps to explain some of this tension.¹⁸ When combined with theories on heterosexual hegemony by Gary Kinsman, it is possible to view this issue through the lens of enforcing a code of monogamy on the emerging sexual communities of the 1970s.¹⁹ The rise of a politicized religious right, including Anita Bryant and locally, Ken Campbell, signalled a reaction to a growing wave of liberationist culture. In many ways, the 1969 Omnibus Bill was a concession to these cultural changes. The boundaries of acceptable sexuality were only to shift in limited ways. If the gender component of heterosexual hegemony was to be altered, the number of participants was to remain the same. Sexual regulation was altered to a definition based on private and public. Private meant monogamy, public meant more. Or in the words of Liberal MP Ken Robison, “more than two is a crowd.”²⁰

The history of the RTPC centers on gay sex in bathhouses. The police targeted bathhouses because these were spaces that were far removed from community standards of morality. The Barracks trial, for example, included cans of vegetable shortening brought before court as evidence of indecency. Raunchy gay sex was on display for anyone to see. At times, this meant the RTPC defined bathhouse sex as an issue of individual privacy and civil rights against an imposing police state. At other times, the RTPC was keen to defend issues of group sex or late night adventures in public parks. The expectation by police and prosecutors was that the men charged would be too embarrassed and ashamed to mount a defense. They also had no idea that a massive community of activists and allies would rally behind

¹⁸ Robin Bauer, “Non-Monogamy in Queer BDSM Communities: Putting the Sex Back into Alternative Relationship Practices and Discourse,” in Meg Barker and Darren Langridge, eds., *Understanding Non-Monogamies*, New York: Routledge, 2010: 145.

¹⁹ Gary Kinsman, *The Regulation of Desire: Homo and Hetero Sexualities 2nd Ed.*, Montreal: Black Rose Books, 1996: 37.

²⁰ Canada. Parliament. House of Commons. Standing Committee on Justice and Legal Affairs. Minutes of Proceedings. (Issue No. 81, May 5, 1982) 32nd Parliament, 1 Session: 18.

such immoral behaviour. The right to use the orgy room in the Barracks free of police oppression was a reason for 3,000 people to rally down Yonge Street. For sexual liberationists, it was a turning point.

In January 2001, former RTPC chair Brent Hawkes conducted Canada's first gay marriage ceremony. In 2002, an Ontario court decided that restrictions on these marriages violated the Charter of Rights and Freedoms. In 2005, marriage equality was formally passed into law by Parliament. The history of group sex in gay bathhouses is in a different era than the marriage equality debates of the early 2000s. Ideals of marriage were not part of the demands for reform by the RTPC, and this was not a priority for queer political organizations in the 1970s and 1980s. In contrast, Criminal Code reform and pushing the boundaries of mononormativity was not a priority in the 1990s and 2000s. However, in 2016, the group Equality for Gays and Lesbians Everywhere published the *Just Society* report, which has recommended the removal of anal intercourse and the bawdy house law from the Criminal Code.²¹

The RTPC: Resisters of Social Control

The Right to Privacy was a complex organization. It cannot be understood in a singular form, but rather, as four separate entities spanning a ten-year history. At first, it was called the December 9 Defense Fund, a simple institution designed to handle donations to cover legal fees of those charged in the 1978 Barracks raid. When police agent Gary Donovan notified the employer of teacher and Defense Fund member Don Franco's arrest in the Barracks, the group adopted a political entity to coincide with legal fundraising and coordination. At a meeting hosted by Peter Maloney, the group adopted the 'right to privacy' name as a means of balancing political legitimacy with sexual expression. This was a group of moderates, who preferred official political briefs and appearances at the Metropolitan Toronto Board of Commissioners of Police. They worked to foster connections with Toronto's racial minority communities, including the Working Group on Police Minority Relations, through the Umbrella Effect.

²¹ Douglas Elliot et. al., *The Just Society Report*, EGALÉ Canada Human Rights Trust, 2016 [online] http://egale.ca/wp-content/uploads/2016/06/FINAL_REPORT_EGALÉ.pdf

The second RTPC emerged after Maloney and Brent Hawkes recruited sociologist John Alan Lee to placate the criticism that the group was too closely aligned with business. Lee modelled the RTPC after his sit-in at the office of the Attorney General, which was coordinated by a small group of dedicated activists. This version of the RTPC was characterized by a centralized executive where the chair and the political action coordinator could speak for the group. This brought intense conflict for Lee, particularly in his relationship with Barracks owner Rick Stenhouse.

After Operation Soap, George Smith orchestrated a coup and replaced Lee. This third manifestation of the RTPC brought hundreds of volunteers into the organization, who were divided into various subcommittees united under a common goal. Smith refocused the group away from local police reform toward a focus on the sections of the Criminal Code that regulated consensual sexual behaviour. Under this RTPC, all activities of the group were designed to continue the politicizing of the community beyond protests in the streets. Finally, the fourth RTPC emerged after the Operation Soap trials. Gay Court Watch and the Right to Privacy Foundation emerged as institutions capable of rousing the community on various issues after the end of the bathhouse raids in 1983. Gay Court Watch defended those charged in washrooms as a result of police entrapment techniques, and the active members of the Right to Privacy Foundation coordinated with the Coalition for Gay Rights in Ontario to press for the inclusion of sexual orientation in the Ontario Human Rights Code in 1986.

According to Marcel Martel, agents of social control have attempted to regulate the moral behaviour of others since colonization. Conversely, he argues that we can find individuals and groups who “have found ways to fight back.”²² This includes those who practiced ‘deviant’ behaviour inside the bathhouses despite the moral regulations condemning them. It also includes the resisters of social control, the individuals who worked to change the social, cultural, and legal conditions that regulated

²² Marcel Martel, *Canada the Good: A Short History of Vice Since 1500*, Waterloo: Wilfred Laurier Press, 157.

the bathhouses in the first place. Like the agents, the resisters were complex individuals. They joined the RTPC with their own identities and experiences. Some were closely aligned to the Liberal party, including Peter Maloney. Others, like George Smith, lived as part of a leftist commune. They debated a rights versus liberation approach. They argued about whether to call for a repeal of the bawdy house law, or whether to reform it. When they lost sight of their political allies, they were confronted with their privilege. These resisters brought their experiences to other groups, including the AIDS Committee of Toronto. This history is still incomplete. There is more to be done. The agents of social control are expressing their regret; the resisters of social control are telling their stories. We are still searching for the legacy of the 1981 Toronto bathhouse raids.

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| Ed Jackson | Activist – Body Politic |
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| Tim McCaskell | Activist – RTPC Public Action Committee |
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| Mariana Valverde | Activist – LAR |
| Tom Warner | Activist – RTPC, Coalition for Gay Rights Ontario |
| Charles Campbell | Lawyer – Right to Privacy Foundation |
| Jack Gemmell | Lawyer – RTPC |
| Peter Maloney | Lawyer – RTPC |
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