



Clause (or Section) 28

by Luca Prono

Encyclopedia Copyright © 2015, glbtq, Inc.
Entry Copyright © 2004, glbtq, inc.
Reprinted from <http://www.glbtq.com>

In British law, the homophobic Section 28 of the Local Government Act, enforced from May 1988 until September 2003, prohibited local authorities from promoting homosexuality or teaching in state schools the acceptability of homosexuality as a "pretended family relationship."

The section practically banned council funding of books, plays, leaflets, films, or any other material depicting homosexual relationships as normal and positive. There was widespread opposition to the introduction of the section and several political battles were fought to repeal it.

Adoption of the Section

The political antecedent to Section 28 was a Private Members Bill entitled "An act to refrain local authorities from promoting homosexuality," introduced by the Conservative peer Lord Halsbury in the House of Lords in 1986. Lord Halsbury believed that the material published by certain London councils was intended to indoctrinate young people into thinking that homosexual relationships were better than heterosexual ones.

At the time the Conservative government led by Prime Minister Margaret Thatcher considered the Bill "unnecessary," risky, and "open to harmful misrepresentation." Still, the Bill passed through the Lords, and was introduced by the Conservative MP for the constituency of Birmingham-Edgbaston, Jill Knight, in the House of Commons. It was eventually dropped because of lack of government support and the announcement of the 1987 general election, which Thatcher won with a solid majority.

Near the end of 1987, Jill Knight, who had been re-elected MP for Birmingham-Edgbaston, introduced the clause into the Local Government Bill. Knight and other Conservative MPs had been prompted to act by a sensationalized tabloid newspaper story about the children's book *Jenny Lives with Eric and Martin*, found in the library of a Labour-controlled council. Authored by Danish writer Susanne Bosche and illustrated by Andreas Hansen, the book tells the story of a child who lives in a household with two gay men as her fathers.

The clause was inserted at the committee stage of the Bill on December 7, debated in Committee on December 8, and was adopted by the full House of Commons on December 15, just before the Christmas recess. The legislation took effect on May 24, 1988.

While going through Parliament, the proposed legislation was labeled using a variety of clause numbers, as other clauses were added to or dropped from the Bill (in Britain, proposals are called clauses before they become law). After they become law, they are known as sections. Thus, this piece of legislation is referred to as both "Clause 28" and "Section 28."

The Battle against Section 28



Margaret Thatcher. As Prime Minister, Thatcher called Clause 28 "unnecessary and risky," but nevertheless supported it and other repressive legislation targeting homosexuality. Courtesy Library of Congress Prints and Photographs Division.

The battle against Section 28 incited the British gay and lesbian movement into action. It may be said to have made gay activists out of people who might never have come out. For example, the actor Ian McKellen established himself as an activist in the battle against the law. He came out in a BBC radio interview in response to the legislation, and then joined with other prominent gay men and lesbians to form the Stonewall Group, Britain's first major lesbian and gay rights lobbying organization.

Other organizations, including the group OutRage!, were formed to combat the legislation and to agitate for its repeal. The largest political demonstrations on behalf of gay and lesbian rights in British history were motivated by Section 28.

Effects of the Legislation

Although no one was prosecuted for breaching the section, the law achieved its goal of making local authorities cautious about funding material or events dealing with homosexual issues. As a result of Section 28, many local authorities were reluctant to grant public space to gay and lesbian organizations or to host glbtq publications in their libraries. Still, the legislation was not as effective as its sponsors might have hoped.

The caution that local councils exercised is apparent from the fact that the London Borough Grants Scheme, for example, suggested in its notes for guidance that applications in contravention of Section 28 would not be considered. In 1998, the Birmingham City Council withdrew plans to publish an information booklet for young people that included, among other topics, issues related to sexuality and dealing with prejudice.

At the same time, however, some efforts to enforce Section 28 zealously were thwarted. For example, the Shropshire County Council ceased funding the Telford Lesbian and Gay Youth Group, which provided support and counselling services to young people, because of "concerns" over Section 28; but funding was restored after gay rights campaigners protested.

Similarly, Calderdale Library Services refused to stock copies of the gay newspaper *Pink Paper*, ostensibly for fear of breaching Clause 28. Eventually, however, the library relented in the face of protests.

Efforts to Repeal Section 28

In June 2000, using the powers conferred on it by the devolution process, the Scottish Parliament quietly abolished Section 28. Only the minority Conservative Party opposed the repeal. In England, however, the Section remained law, despite several efforts at repeal, until September 2003.

In 1990, Thatcher was replaced as Prime Minister and leader of the Conservative Party by John Major, thus bringing to an end the longest uninterrupted British government of the twentieth century. Major did not change his party's support for Section 28, which, thus, remained unchallenged even after the 1992 general election, unexpectedly won by Major.

In 1997, Tony Blair's Labour government came to power, with wide-spread support from gay men and lesbians, who had high hopes that Section 28 would quickly be repealed. Blair and his cabinet fought several battles to repeal Section 28, although the Labour Party itself, and especially its representatives in the House of Lords, were far from unanimous in its stand against it.

In spite of the huge majority that Labour gained in 1997 and kept in 2001, repealing Section 28 proved a difficult task. The difficulty stemmed primarily from the staunch opposition of the House of Lords, which is not elective and not subject to party discipline and where several peers represent cultural and religious entities that are hostile to gay rights.

In 2000, at the instigation of Blair's government, the House of Commons voted to repeal Clause 28, but the government was defeated twice (on February 7 and July 24) in the House of Lords, in spite of concessions stressing the importance of the family in the Learning and Skills Bill and the replacement of most Conservative hereditary peers with Labour and Liberal-Democrat members.

During Blair's second mandate, the House of Commons once again repealed Clause 28, but this action was not confirmed by the Lords until September of 2003.

Opposition to Repeal

Conservative hard-liners, favored by Conservative Party leader Ian Duncan Smith, consistently opposed repeal of Section 28. While some prominent Conservatives, such as the former Cabinet minister Michael Portillo, argued in favor of repeal, the majority of the Party opposed repeal.

In addition, religious groups, such as the evangelical Christian Institute, the African and Caribbean Evangelical Association, Christian Action Research and Education, the Muslim Council of Britain, and groups within the Roman Catholic Church and the Church of England also opposed repeal. Newspapers such as *The Daily Mail* and *The Telegraph* editorialized against repeal.

Opponents of repeal claimed that Section 28 protected children from predatory homosexuals and pedophiles seeking to indoctrinate vulnerable young people into homosexuality. In addition, some argued that Section 28 was not really homophobic, since it neither advocated nor prohibited homosexuality; it merely prevented state promotion of homosexuality to young people, who should be able to decide for themselves about such issues when they are ready.

The Labour peer Lord Ahmed, representative of the Muslim community in Britain, strongly opposed repeal. Although professing to be shocked by the amount of bullying and violence directed against the homosexual community, he justified his vote against repeal in these words: "I am convinced that some local authorities will interpret the repeal of Section 28 as a ticket to promote homosexuality The Muslim community is totally opposed to the repeal of Section 28."

Proponents of Repeal

Glbtc organizations such as Stonewall and OutRage! and glbtq media such as the *Pink Paper* and the *Gay Times* led the campaign for the repeal of Section 28. The repeal effort was also endorsed by a minority of religious groups and leaders, including Richard Harries, Bishop of Oxford.

In addition to the Labour Party, the Liberal Democrats and the Green Party also campaigned to repeal Section 28. Mainstream media supporting repeal included *The Guardian*, *The Independent*, and *The Mirror*.

In the House of Lords, the campaign for repeal was led by the openly gay peer Lord Alli.

The main argument against Section 28 was that it discriminated against homosexuals of all age groups, and that it was an intolerant and disrespectful law, which unfairly labeled gay family relationships as mere pretense. Additionally, Section 28 put teachers in an awkward position in reference to homosexual bullying and, thus, endangered vulnerable children. Moreover, the law was based on the homophobic assumptions that homosexuals and homosexuality are inherently dangerous to children, and equated homosexuality with pedophilia.

The cultural and political battles sparked by Section 28 became a barometer of British attitudes toward homosexuality, indicating that despite some legal and social advances for glbtq people in Great Britain, homophobic views and assumptions remain alive and well.

Bibliography

Moran, Joe. "Childhood Sexuality and Education: The Case of Section 28." *Sexualities* 4 (February 2001): 73-89.

Stacey, Jackie. "Promoting Normality: Section 28 and the Regulation of Sexuality." *Off-Centre: Feminism and Cultural Studies*. Sarah Franklin, Celia Lury, and Jackie Stacey, eds. London: HarperCollins, 1991. 284-320.

About the Author

Luca Prono holds a Ph.D. in American Studies from the University of Nottingham, where he taught courses in American culture and Film Studies. He has published articles on Pier Vittorio Tondelli, Italian Neo-Realism, and American Radical Literature, as well as on contemporary representations of homosexuality in Italian films.