

## **THE EFFECT OF PARLIAMENTARY LOBBYING ON SCOTTISH MPs IN THE AGE OF CONSENT DEBATE**

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### **INTRODUCTION**

On 21 February 1994 the House of Commons voted to reduce the age of consent for gay men from 21 to 18 years, having earlier rejected a proposal which would have equalised the age of consent for all at 16 years. These votes followed months of intensive lobbying of Members of Parliament by lesbian and gay rights groups, much of which was widely praised by press commentators and politicians for its professionalism and efficiency. Utilising returns from questionnaires distributed to all 72 Scottish MPs, this article investigates the effectiveness of the lobbying.

The conclusions suggest that, as the debate progressed, there was a perceptible shift in MPs' attitudes towards stronger support for a reduction to 16, although the extent to which this is attributable to lobbying is more difficult to ascertain. It appears that arguments on grounds of equality were particularly effective with many MPs. The evidence suggests that, faced with a further vote on the issue in this parliament, few Scottish MPs would behave differently.

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## **BACKGROUND TO THE LOBBYING CAMPAIGN**

Before 1967, homosexual relations between men were criminalised throughout the United Kingdom. The basis of the law was the so-called Labouchere amendment, passed in 1885 and re-enacted in the Sexual Offences Act 1956. The Sexual Offences Act 1967, which applied to England and Wales only, provided that a homosexual act between two (and no more than two) men in private was not an offence 'provided that the parties consent thereto and have attained the age of twenty one years'. In other respects, the Act left intact the framework established in 1885 (Slater and Mason 1993, p.2). Although the Act was the culmination of a long campaign for law reform which had quietly gathered momentum (Jeffery-Poulter 1991), it fell well short of full acceptance of homosexual sex as natural. Indeed, the Act can be seen as reflecting a clear distinction between (partial) tolerance and acceptance. Evans (1993, pp.53-4) has argued that the key watershed which made possible the passage of the 1967 Act - the earlier Wolfenden Report (1957) - even reinforced the moral stigmatisation of homosexuality. By severing the link between criminality and morality, allowing that an act which remained morally abhorrent should not necessarily be illegal, and advocating reforms as a path to framing a law which commanded greater respect and compliance, Wolfenden made clear that the price which gay men had to pay for even partial decriminalisation of their sexual relations was continuing moral denigration.

This was reflected after 1967 in continuing unequal treatment before the law. As well as enshrining an unequal age of consent, the law continued to criminalise homosexual acts involving members of the armed forces and merchant navy. Moreover, 'in private' was defined harshly to exclude any place where a third party might be present; it remained illegal, for example, for two men to make love in an hotel bedroom. The paternalistic nature of the reform was expressed pithily by Lord Arran, chief architect of the 1967 Act, when he declared: 'I ask those who have, as it were, been in bondage, and for whom the prison doors are now open, to show their thanks by comporting themselves quietly and with dignity' (quoted in Weeks 1990, p.176). Parallel criminal legislation was enacted in Scotland in 1980 and in Northern Ireland in 1982. In Scotland, the relevant legislation was the Criminal Justice (Scotland) Act 1980, which incorporated an amendment on gay sex, moved by the Labour MP, Robin Cook. For Northern Ireland, an Order in Council extended the provisions of the Sexual Offences Act 1967 to the province after a ruling against the UK Government by the European Court of Human Rights.

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In some respects, the law was interpreted in Scotland differently during the 1980s and early 1990s than in England or Wales. For example, the legal definition of 'privacy' in Scotland included an hotel bedroom; and a policy of not prosecuting gay men over the age of 18 years unless circumstances pointed to 'exploitation, corruption or breach of trust' was laid down in Scotland in Crown Office Circular No. 2051/1 (quoted in Stonewall Group 1993). In reality, in England and Wales also, a blind eye was often turned to relationships involving two men over 18 years - allowing gay pubs to flourish. In 1991 the then Lord Advocate for Scotland published another circular recommending no prosecutions where both men were over 16, if there were no special circumstances. With fragmentation of the boundaries of immorality and legitimacy came 'commensurate inconsistency in enforcement practices, and immense possibilities for battles over further citizenship gains and losses' (Evans 1993, p.54).

Throughout the 1970s and early 1980s, gay and lesbian rights groups, backed by their supporters in parliament, continued to campaign for further law reform. In 1977, for example, Lord Arran failed in his attempt to lower the age of consent to 18, and in 1981 the Criminal Law Revision Committee made just such a recommendation. However, it was really in the second half of the 1980s that sexual politics occupied centre stage of the British political agenda, with significant changes in the nature and direction of lesbian and gay political activism.

Amid shrill and sometimes hysterical media reporting of the dangers to public health posed by AIDS, and reports of an increase in both physical and verbal anti-gay attacks, the right-wing of the Conservative Party launched a campaign to combat what Norman Tebbit MP daubed the 'valueless values of the permissive society' (quoted in Jeffery-Poulter 1991, p.219). Sensing that attacks on the alleged pro-gay policies of left-wing local authorities and calls for a return to 'traditional family values' were likely to embarrass the Labour Party and prove a vote-winner, the Conservatives took to the offensive. For a time, it seemed as if the Government was not merely going to stand resolute against any move in the direction of gay and lesbian equality, but that moves to 'roll back the tide' - perhaps even including recriminalisation of homosexual relations altogether - could not be ruled out. Although rhetoric always outstripped actual performance (see, for example, Durham 1991), one piece of legislation which did indicate a clear rejection of liberal hopes of a smooth progression towards equal status with heterosexuals before the law was section 28 of the Local Government Act of 1988. There is a large literature on that controversial measure, which prohibited local authorities from the 'promotion' of homosexuality (see, inter alia, Weeks 1989 and 1991;

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Segal 1989; Plummer 1993; Durham 1991; Jeffery-Poulter 1991). What is important in the present context is the obvious boost which the measure unintentionally gave to the lesbian and gay political movement in the UK.

Section 28 was perceived by many as an intimidatory measure which threatened to undermine local authority funding (such as it was) of lesbian and gay arts festivals and cultural events and helplines, inhibit the discussion of lesbian and gay sexuality in secondary schools (other than in a pejorative and condemnatory manner), and encourage censorship of books and magazines in local authority-funded libraries. The response by British lesbians and gay men, augmented by growing activism over the issues of AIDS and HIV, saw both the appearance of a number of direct action groups - such as the lesbian activists who absented themselves into the House of Lords in February 1988, or occupied the BBC newsroom during transmission of an evening news bulletin in May - and the emergence of what began to resemble a mass lesbian and gay movement. For example, in January 1988 between 8,000 and 10,000 activists marched in London against the measure; in February, between 13,000 and 20,000 took to the streets of Manchester; another London demonstration in April attracted an estimated 30,000; and in June, the annual Gay Pride event attracted a record 20,000 (Jeffery-Poulter 1991, pp.218-260).

As well as unprecedented mass mobilisation and deployment of direct action tactics, the new wave of political activism also involved a more prominent role being played by lesbians, 'many coming to gay politics via feminism and passing through a period of radical feminism' (Carter 1992, p.217). Carter continues: 'never having relied heavily on traditional campaign methods of lobbying and exerting institutional pressure, radical feminism developed symbolic strategies on the streets with spray paint and at actions like the women's peace camps'. Such direct action was to be at the 'cutting edge' of future lesbian and gay activism - along with the more 'traditional' techniques of lobbying. In Scotland, as elsewhere in the UK, the impact of AIDS reporting and the introduction of section 28 had witnessed a perceptible rise in homophobia which had affected lesbians as much as gay men. Many women were to be subsequently involved in lobbying on the age of consent issue - ostensibly an issue affecting gay men only - both through a sense of solidarity with gay men along with whom they had worked politically, and through a recognition that wider issues of citizenship were involved. (These comments are based on interviews with lesbian activists in the Forth area and in Tayside.)

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Significantly, this new wave of activism was to mark a turning-point in the history of law reform. As Jeffery-Poulter argues, the Local Government Act 'placed the principle that homosexuality was socially undesirable and inherently inferior to heterosexuality on the statute book in an explicit form for the first time' with the result that 'Parliament faced up to the real issue at the centre of the gay rights debate: whether homosexuality should be recognised as an alternative lifestyle which had equal validity to heterosexuality' (1991, pp.236-237). Indeed, parliamentary debates revealed how far the discussion had come: in place of the language of liberal tolerance of, and compassion for, those 'unfortunate' enough to be homosexual, 'every politician opposed to section 28 had framed their arguments in the context of gay rights being a matter of basic civil liberties' (1991, p.240).

With a majority in both the Labour and Liberal Democrat parties opposed to section 28, and with the agenda now broadened, parliamentary lobbying intensified during the remainder of the 1987-1992 parliament. May 1989 saw the formation of a high-profile lesbian and gay parliamentary lobbying organisation, the Stonewall Group. Fronted by the actors, Ian McKellen and Michael Cashman, Stonewall set itself the task of campaigning for 'legal equality and social justice' by concentrating on changing MPs' attitudes and lobbying the media. Its tactics included both eliciting support quietly in the corridors of power, and bringing pressure to bear on MPs by building up a large network of supporters who were encouraged to write directly to their local MP. Some of the more radical lesbian and gay direct action groups - such as OutRage!, established in May 1990 - were to criticise Stonewall as a largely middle class and 'tame' organisation, which framed the agenda for change in traditional 'liberal' terms. However, Stonewall was to prove very important during the events leading up to the vote in February 1994. It set about consciously creating an image of professionalism and seriousness, financing a number of well-researched and documented surveys, reports and fact-sheets which were to facilitate lobbying. In May 1990, Stonewall began circulating in the lesbian and gay movement a draft Homosexual Equality Bill; that same month, the Campaign for Homosexual Equality, celebrating 21 years in existence, announced that its target was now an equal age of consent at 16.

John Major's election as Conservative Prime Minister in November 1990 increased hopes that law reform might, after all, be a possibility. In July 1991, Stonewall received an assurance from Labour deputy Leader Roy Hattersley of the party's support for an equal age of consent. However, stringent Conservative opposition remained an insuperable barrier, given that party's huge parliamentary majority. However, by the beginning of 1992 a

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number of facts suggested that a parliamentary vote might not be far away. First, Stonewall had succeeded in enlisting around 50 MPs in its Parliamentary Network. Second, John Major had agreed to an historic meeting on lesbian and gay rights at Downing Street with Stonewall campaigner Sir Ian McKellen (earlier elevated to a knighthood in recognition of his services to the theatre). Finally, a general election was due in mid-1992.

The Conservatives retained power in April 1992 with a much reduced majority. A Labour victory at the polls would certainly have encouraged law reform campaigners to believe that not only was an equal age of consent within their grasp, but also the repeal of section 28 and the enactment of anti-discrimination legislation. After April 1992, hopes of reform rested upon securing the support of an overwhelming majority of Labour and Liberal Democrat MPs, together with that of a substantial minority of Conservatives. It became clear during 1993 that the Government might accept a lowering of the age of consent to 18 years, but would not accept equality. A perusal through Ministerial replies in Hansard reveals a noticeable softening in the terminology used in the early 1990s, with Ministers referring to 'lesbians and gay men' rather than 'homosexuals' on occasion. The rhetoric of the Thatcher years is less in evidence especially after the 1992 general election. Nevertheless, opposition within Conservative ranks to any moral equation between homosexuality and heterosexuality remained very strong, and the Major administration's bungled 'Back to Basics' campaign in 1993 was widely seen as inducing panic in Government ranks on questions of sexual morality. By September 1993, it was clear that any vote on the age of consent was likely to follow an amendment to the Criminal Justice Bill, drafted by Stonewall and tabled by Conservative back-bencher Edwina Currie. This amendment would propose an equal age of consent at 16 years. A further Government-backed amendment proposing 18 years for gay men was also by then regarded as inevitable.

### **THE LOBBYING CAMPAIGN: ISSUES AND ARGUMENTS**

Between Autumn 1993 and 21 February 1994 when the vote was taken, Stonewall concentrated on making seven basic arguments. First, that equality and natural justice demanded that all citizens be treated the same before the law; that, accordingly, only a reduction to 16 years would suffice: any 'compromise' at 18 would leave the main issues unresolved. Second, that the law as it stood was being enforced with thousands of gay men arrested for offences involving consensual sex with men between 16 and 21 years, and

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that consequently the law did have a material effect on the lives of gay men. Moreover, Stonewall argued that defeat for 16 was likely to mean increased prosecution of young men for entirely consensual relationships. Third, that the criminalisation of young gay men's sexuality inhibited sex education and health care provision and distorted the fight against AIDS and HIV infection. Fourth, that the UK was wildly out of line with prevailing patterns elsewhere in Europe where a majority of countries had equal ages of consent; Stonewall also announced its sponsorship of a case being brought by three young gay men against the UK Government at the European Court of Human Rights. Fifth, that research data suggested that the stereotype of a young man being 'seduced' by an older gay man was out of touch with reality: that most young gay men who had sex in their teens did so with a partner of almost the same age. Sixth, that it was a groundless myth that homosexuality could be 'spread' by contagion. Finally, that the issue was one of human rights, of accepting diversity, and consequently of importance to those concerned with the broader health of British democracy. Admittedly, several of these arguments - for example, the fifth and sixth amongst them - struck some lesbian and gay activists as unnecessarily apologetic.

Direct lobbying of MPs was encouraged through activation of Stonewall's database of up to 20,000 contacts throughout the country. An appeal was sent to all urging them to write to their MP. Stonewall advised that constituents' personal experiences might be of effect in persuading MPs who were undecided, but added: 'Avoid deeply emotional appeals, demands, threats or promises. These are not effective tactics' (Stonewall Group 1993). Rallies and meetings enlisted the support of trade unions, helplines and counselling agencies, religious and political groups, civil liberties groups, organisations combatting AIDS and HIV infection, and agony aunts. Both the Royal College of Psychiatrists and the British Medical Association (BMA) were persuaded to declare their support for 16, as were two Anglican bishops - the Bishops of Edinburgh and Monmouth. A steady flow of information, new declarations of support for 16, and ever rising estimates of the number of MPs likely to support 16 helped to maintain momentum, even though the vote was repeatedly delayed.

In Scotland, additional parliamentary lobbying was undertaken by Outright Scotland (formerly the Scottish Homosexual Rights Group). A small organisation in terms of membership, but enjoying good links with a number of MPs including Sir David Steel and Robin Cook (its past and present Honorary Presidents, respectively), Outright worked closely with Stonewall. The two organisations, for example, shared information about how MPs were moving on the issue. Moreover, with the support of sympathetic lawyers,

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Outright advised Stonewall on the Scottish parts of the legislation to be tabled. Almost identical arguments to those used by Stonewall were employed by Outright, with the exception that Outright pointed out that the law was rarely, if ever, applied in Scotland - there were no convictions under section 80 of the Criminal Justice (Scotland) Act 1980 for private consenting acts between men where one or both men was aged 16 to 21 in 1988 and 1989, the most recent years for which figures were available. Outright backed up its lobbying of MPs with a campaign of letter-writing to Scottish newspapers, and the release of a letter in support of equality signed by well known figures from churches and trade unions, as well as lawyers and doctors. Outright also successfully lobbied the Scottish Trade Unions Congress - an important influence, one might surmise, on some traditionalist working class Scottish Labour MPs who might be wavering - and the Scottish Council for Civil Liberties.

Opponents of an equal age of consent were never to achieve the same degree of organisational cohesion. A number of senior church figures, including the Archbishop of York, spoke out against equalisation of the ages of consent; however, few secular figures of note did so. Although the tabloid press could be relied upon, for the most part, to do its utmost to activate latent opposition in the population at large to the proposed law reform, actual lobbying of MPs by opponents of reform was largely left to the small Conservative Family Campaign (CFC). This group deployed a combination of religious and moral arguments against any change in the law, warning that a reduction in the age of consent would lead to young men being seduced into a life of corruption and moral depravation. The CFC also apparently circulated all MPs with copies of the free weekly magazine for gay men, **Boyz**, in an effort to convince MPs of the 'immoral' nature of gay sub-culture (**Boyz** carries page-three-style male pin-ups). However, the religious fundamentalist and apocalyptic flavour to CFC campaigning can scarcely have appealed to many floating voters amongst MPs; the CFC, moreover, earned widespread derision - and lost several of its sponsors amongst Conservative MPs - when its chairman, Stephen Green, claimed in a circular that he had been called by God to provide leadership in opposing the Currie amendment, and that Mrs Currie and other MPs who supported her were 'Satan's forces'.

Once the Government had made clear its support for 18, it could be taken for granted that a large majority of Conservative MPs would vote accordingly. This may have encouraged a degree of fatalism on the part of both those opposed to any change, and those resigned to the 'compromise' of 18. Embarrassment, or even revulsion, at airing openly some of the issues involved in any discussion about human sexuality may also have been a

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factor inhibiting some opponents of reform. It does appear that weak organisation and ever weaker presentation of the arguments by those opposing equalisation of the ages of consent was a striking feature of the campaign, and they may find themselves running fast to make up lost ground if the issue comes up again in any future parliament without an in-built Conservative majority.

### **OUTCOME OF THE VOTE**

When the vote was taken on 21 February 1994, 280 MPs supported the Currie amendment to the Criminal Justice Bill but 307 voted against, thus rejecting an equalisation of the ages of consent. MPs then voted by 427 to 162 in favour of an age of consent for gay men of 18 years. Amongst Scottish MPs, 53 out of 72 voted for equality, 16 voted against (another was a teller for the Noes) and 2 abstained. This undoubtedly reflects the dominance of the non-Conservative parties in Scotland. On the vote on 18, 58 Scottish MPs voted in favour, 10 voted against (another was a teller for the Noes), and 3 abstained.

In the key vote on 16, 43 Labour MPs voted in favour, 5 voted against and 1 abstained; 8 Liberal Democrats voted in favour and 1 abstained; 2 SNP MPs voted in favour and 1 voted against; 10 Conservatives voted against, with the remaining Conservative acting as a teller for the Noes. (See **Hansard**, 21 February 1994, for the debate and both votes.)

Comparing the Scottish MPs' voting behaviour with that of British MPs as a whole, it is clear that party political voting patterns reveal some discrepancies. While Scottish Labour MPs showed themselves, pro rata, to be slightly more inclined towards support for an equal age of consent than their English and Welsh counterparts, not a single Scottish Conservative supported equality, while 43 English Conservatives did so. Perhaps this reflects the fact that, there being comparatively few Conservative MPs in Scotland, proportionately more hold Ministerial office and so felt obliged to follow the Cabinet majority. Perhaps it reflects a greater influence of religious and moral concerns over libertarian concerns on the part of the Scottish Tories. It is impossible to extrapolate firm conclusions from the available evidence.

**THE IMPACT OF LOBBYING ON SCOTTISH MPs:  
ANALYSIS OF QUESTIONNAIRE RETURNS**

Questionnaires with a covering letter were sent to all 72 Scottish MPs. The questionnaires were designed to be brief, impersonal and uncontroversial. They focused almost exclusively on MPs' attitudes towards lobbying, lobbyists and the age of consent issue. 27 completed questionnaires were returned, and a further 11 MPs acknowledged receipt but declined to complete their questionnaire. Pains were taken in the covering letter to emphasise the academic nature of this research and it was suggested that the questionnaire could be completed anonymously if the respondent so desired, hoping that this may assuage any fears MPs might have about adverse publicity arising from their response. It would clearly be unethical to divulge the names of respondents, but as several questionnaires were returned with personalised compliment slips it is known that at least 3 of the 4 Scottish political parties at Westminster are represented. Although the majority of Scottish MPs voted for a reduction in the age of consent to 16, there were a few responses from MPs who voted for retention of 21, giving the replies balance.

In section A of the questionnaire, MPs were invited to give personal details about their age, and religion (if any). Table 1 shows the resulting frequencies. As there were only 27 responses, percentages would give an inflated impression of the reliability of the results and are consequently not used in most of the following tables.

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**Table 1**

**Age and religion of MPs**

Religion	Age				No answer	Total
	31-40	41-50	51-60	60+		
Protestant	4	1	1	1	0	7
Catholic	0	1	2	0	0	3
Christian	0	1	0	0	0	1
None	1	7	3	1	0	12
No answer	1	1	0	0	2	4

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Total	6	11	6	2	2	27
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There appears to be no particular correlation between age and religion (or lack of religion). Twice as many 31-40 year old MPs in the sample indicated a religious faith than did not, and just over twice as many 41-50 year olds had no religion than did; those who were 50 and over were evenly split between religious and non-religious.

In section B MPs were asked about the number and nature of the representations they had received on the age of consent issue. Lobbyists were divided into three types: 'constituents', 'organisations' and 'other individuals'. MPs were offered 4 categories of lobbying: reduction in the age of consent to 16, reduction to 18, retention of 21, and recriminalisation; and invited to indicate the number of letters and telephone calls to their constituency and Westminster offices by each type of lobbyist within each category. However, most respondents did not differentiate to such a degree, and gave totals for each type of lobbyist only. It is therefore impossible to gauge where most lobbying was directed and whether it was by letter or telephone call. Regrettably, 'in person' boxes for each type of lobbyist were omitted but, given that most MPs who replied entered only lobbyist type and lobbying category totals, not much may have been learned from including the extra category. Some MPs may have forgotten about lobbying in person when they completed their questionnaire, but it is equally possible that the type of lobbyist totals included lobbying in person. Table 2 shows the frequencies for each type of lobbyist and category of lobbying.

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**Table 2**

**Lobbying by type of lobbyist and category of lobbying**

	Lobbying for							
	Reduction to 16		Reduction to 18		Retention of 21		Recriminalisation	
By constituents	389	27.8%	0	0.0%	246	17.6%	19	1.4%

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By organisations and groups	472	33.7%	8	0.6%	47	3.4%	25	1.8%
By other individuals	117	8.4%	0	0.0%	66	4.7%	10	0.7%
Total	978	69.9%	8	0.6%	359	25.7%	54	3.9%

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Over 95% of lobbying was either for a reduction to 16 or for retention of 21. Pro-16 lobbying from both constituents and organisations outweighed all pro-21 lobbying in terms of numbers of representations. There was virtually no pro-18 lobbying and surprisingly, all 8 representations for 18 were from organisations (one respondent reported 2 letters in favour of 18 to Westminster and another recorded 6 letters in favour of 18 to the constituency). Whilst there was also a small amount of lobbying for recriminalisation, in the event no amendment recriminalising male homosexuality was tabled, suggesting that if any MPs privately supported such a view, they were unwilling to do so publicly.

Nearly 50% of all pro-16 lobbying was by organisations and groups. Over 68% of pro-21 lobbying was by constituents, although this consisted of fewer actual representations. Lobbying from other individuals amounted to 18% or less of each of the pro-16, pro-21 and pro-recriminalisation categories. A clear majority of each type of lobbyist was in favour of a reduction in the age of consent to 16, including over 85% of all representations made by organisations and groups. It is not known exactly how many organisations lobbied on this issue. However, from the replies received it is clear that the pro-16 organisations were more intensive in their lobbying than the pro-21 groups, and through their campaigns urging individuals to write to their MPs may have directly increased the number of constituents and others who also lobbied for 16. Consequently, it is likely that a sizeable number of the pro-16 constituents had lobbied their MPs at the behest of organisations, but it is not so clear whether most of the pro-21 constituents were similarly activated by the pro-21 organisations.

MPs were then asked if they considered the lobbying helpful to them in deciding whether and how to vote. Table 3 shows the frequencies derived from the sample.

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**Table 3**

**Was the lobbying helpful?**

Very helpful	Fairly helpful	Had no effect	Fairly unhelpful	Very unhelpful	No answer
1	13	8	0	0	5

To probe this a little further, it was assumed that the lobbying could be split into 4 categories: pro-16, pro-18, pro-21 and pro-recriminalisation, and MPs were asked to give their verdict on each category. The frequencies derived are shown in Table 4.

**Table 4**

**MPs' opinions of each category of lobbying**

	Very useful and informative	Fairly useful and informative	Had no effect whatsoever	Fairly useless and propagandist	Very useless and propagandist	No answer
Pro-16	4	15	4	1	1	2
Pro-18	0	2	12	1	0	12
Pro-21	0	6	9	6	2	4
Pro-recriminalisation	1	0	6	4	5	11

Over two-fifths of respondents did not answer this question in relation to pro-18 and pro-recriminalisation lobbying, suggesting that they either did not recognise separate lobbying in favour of these outcomes or did not receive any. While the proportions in the pro-16 category tend to reflect broadly the eventual voting of Scottish MPs on this issue (those finding pro-16 lobbying

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useful and informative voting for 16 and those finding it useless and propagandist voting against 16), the trend is not reversed in the pro-21 category, where no respondent considered the lobbying to be 'very useful and informative' and an equal number thought it to be 'fairly useful and informative' as thought it to be 'fairly useless and propagandist'. One MP thought that the pro-16 lobbying fell into two clear types - 'fairly useful and informative' and 'very useless and propagandist' - and has consequently been included in the 'no answer' column.

MPs were asked whether the 4 categories of lobbying had any effect on whether and how they voted. Frequencies derived from the data are shown in Table 5.

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**Table 5**

**The effect of each category of lobbying on how MPs voted**

	Influenced to vote for 16	Influenced to vote against 16	Influenced to abstain on either vote	Influenced to vote for 18	Influenced to vote against 18	No answer
Pro-16	12	3	1	0	1	10
Pro-18	4	1	0	1	4	17
Pro-21	7	0	0	1	3	16
Pro- re-criminal- isation	7	0	0	0	2	18

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The fairly high proportion of MPs who chose not to answer this question includes several who had already indicated that the lobbying had no effect on them, but it is possible that this rather complex question which attempted to cover both amendments engendered some confusion. However, it is striking that whilst over a quarter of respondents indicated they were influenced to vote for 16 by the pro-21 and pro-re-criminalisation lobbying, none were influenced to vote against 16 by these categories of lobbying. 18 MPs answered in respect of at least 1 of the 4 lobbying categories. Eight MPs gave the same voting outcome 2, 3 or 4 times, but a further 4 indicated that

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different categories of lobbying influenced them to vote in different ways (for example, MPs in favour of 16 who voted for 16 and then against 18).

MPs were also asked if they considered that lobbyists deployed 'negative tactics' to influence them to vote the way lobbyists had advocated. This question was included in order to try to ascertain whether particular categories of lobbying had provoked hostility from MPs who might have considered they were being subjected to undue pressure or even forms of moral blackmail on a vote which was ostensibly free from partisan influence. However, the expression 'negative tactics' was not defined in the questionnaire as it was felt this could be an emotive point which risked introducing bias; it was left up to MPs to interpret the term in relation to their own reaction to the lobbying. The frequencies are shown in Table 6.

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**Table 6**

**Did lobbyists deploy 'negative tactics'?**

	Definitely	Probably	Possibly/ Possibly not	Probably not	Definitely not	No answer
Pro-16	1	1	3	4	9	9
Pro-18	0	1	5	4	2	15
Pro-21	7	2	0	4	4	10
Pro- recriminal- isation	7	1	0	2	3	14

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Most MPs who answered this question had formed a clear opinion. However, these figures cannot easily be reconciled with those from Table 2, which showed an extremely low number of representations made to MPs for a reduction in the age of consent to 18 and for recriminalisation. It is possible that MPs may have taken into account parliamentary colleagues who had been advocating the position adopted by most members of the Government (to vote for a reduction to 18), rather than confining their answers to external lobbying. Another possibility is that MPs were giving an assessment based on reports which they had encountered in the media or on the Westminster

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grapevine. Alternatively, the responses in Table 6 may of course demonstrate as much about MPs' attitudes towards lobbyists who had advocated positions with which they already agreed or disagreed as they do about the actual lobbying which took place.

MPs were then invited to show if one or more of a list of types of argument were influential in helping them decide whether and how to vote. Table 7 contains the frequencies.

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**Table 7**

**Were various arguments influential in helping MPs decide whether and/or how to vote?**

Type of argument	Number of times cited
Religious	1
Moral	6
Equality	18
Human rights	14
Health education	13
Other	3
No answer	4

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Although this type of question could introduce bias by offering categories which appear to be relevant, the 'other' line gave MPs an opportunity to select their own categories if those provided were insufficient, and was used by 3 respondents. One preferred 'health' to 'health education', another wrote 'the law as it stands is not enforced' and the third cited 'libertarian principles'. The remaining responses seem to roughly reflect the way in which MPs voted, as 'equality', 'human rights' and 'health education' were the main factors in the pro-16 campaigns, whilst 'religious' and 'moral' objections to reform

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underpinned the pro-21 arguments. A follow-up question asked which argument was most influential. Several MPs indicated that 2 or more arguments were equally influential, but the factor cited most frequently was 'equality', by 16 MPs. Finally in this section, MPs were asked to nominate the organisation whose lobbying they thought was most effective. Table 8 contains the replies.

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**Table 8**

**Which organisations' lobbying was most effective?**

Organisation	Number of times cited
Stonewall	9
British Medical Association	2
Outright (Scotland)	2
Scottish AIDS Monitor	1
Terrence Higgins Trust (AIDS charity)	1
SIGMA	1
Fife Friend (local lesbian/gay/bisexual group)	1
Conservative Family Campaign	1
Other	5
No answer	10

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One MP who declined to complete the questionnaire wrote in a covering letter that the advice of the BMA had been considered carefully, and representations from all other organisations and individuals had been consigned to the bin! Therefore the BMA tally in Table 8 can effectively be increased by 1. The comparative success of Stonewall is probably indicative of that organisation's high profile and lobbying experience. The 5 MPs grouped in the 'other' category did not nominate organisations as such, but made relevant observations. One said that the argument of a parliamentary colleague had been influential, a second said that the arguments in individual

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letters were more influential than those from organisations, a third said 'Those concerned about the health of our nation and the interests of our young people', a fourth said that all organisations were unhelpful and, in contradistinction to the fourth, a fifth said that 'All pro-16 lobbying was valuable - I cannot rank order it further'.

Section C addressed MPs' perceptions of the issue. MPs were asked about their attitudes towards changing the law on the age of consent, both before the current Criminal Justice Bill was introduced, and after the House of Commons voted to reduce the age of consent to 18. Because of the tabled amendment proposing an equal age of consent for all at 17, this option was added to the questionnaire. Table 9 shows that there has been a marked shift in attitude towards equality at 16, although it does not necessarily follow that effective lobbying was the only reason.

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**Table 9**

**MPs' attitudes towards changing the age of consent, over time**

Before the current Criminal Justice Bill was introduced		After the vote on 21 February 1994	
Supported reduction to 16	15	Support reduction to 16	21
Supported reduction to 17	1	Support reduction to 17	0
Supported reduction to 18	3	Support retention of 18	2
Supported retention of 21	6	Support return to 21	3
Supported recriminalisation	0	Support recriminalisation	0
No answer	2	No answer	1

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MPs were also asked whether they were certain they had made the right decision when voting or abstaining. The frequencies are shown in Table 10:

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**Table 10**

**Did MPs think they made the right decisions?**

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	Very certain	Fairly certain	Indifferent	Fairly uncertain	Very uncertain	No answer
In their vote on 16	23	0	0	1	0	3
In their vote on 18	13	5	0	2	0	7

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A considerable majority of MPs in the sample who answered this question were satisfied with the way they voted on 21 February 1994. None were indifferent or very uncertain about the way they voted. However, in the event that a sizeable number of respondents might say they were uncertain, MPs were asked if they would repeat their decision if another vote was held on reducing the age of consent to 16. The frequencies are shown in Table 11.

**Table 11**

**Would MPs vote the same way if another vote for 16 was held?**

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Definitely	Probably	Possibly	Probably not	Definitely not	No answer
23	2	0	0	0	2

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There is little indication from the data that, if another vote on reducing the age of consent to 16 was held in this parliament, Scottish MPs would vote much differently than they did on 21 February 1994. Finally, respondents

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were invited to state briefly why they voted the way they did, or abstained. 14 did comment, and their statements are contained in the appendix.

## **CONCLUSION**

Given the highly emotive nature of the age of consent issue, and the importance attached to it by protagonists on both sides of the debate who tend to see it as either an issue of fundamental human rights or one of creeping moral degeneracy, it is extremely likely that another vote will be held on the matter, if not this side of a general election, then shortly afterwards. Despite the anger and disappointment expressed by gay and lesbian rights campaigners after 21 February 1994, some took comfort in the progress which seemed to have been made, both in winning 280 MPs to support an equal age of consent, and in convincing important pressure groups in society. Others have been less sanguine, and there have been a number of articles in the lesbian and gay press since the vote was taken which were highly critical of Stonewall's alleged complacency, over-reliance on traditional forms of lobbying, and its perceived failure to link the struggle for sexual equality to the struggles of other marginalised or oppressed groups in society. Stonewall's reluctance, for example, to campaign against other provisions of the Criminal Justice Act relating to civil liberties issues has been fiercely condemned in the pages of the **Pink Paper** and other publications as evidence of its alleged 'apologetic' stance and 'pro-establishment' bias. It remains to be seen whether these arguments will be amicably resolved and whether proponents of direct action such as OutRage! will be able to work in concert with lobbyists in the run up to any future vote on the age of consent.

Both Stonewall and Outright Scotland urged supporters to write and thank MPs who had supported the equality position, and set about working together on other changes to the law - such as decriminalising gay sex for armed forces and merchant navy personnel, and instituting a new criminal offence of male rape (both changes were subsequently conceded by the Government during consideration of the Bill in the House of Lords). The lesbian and gay lobby is clearly preparing itself for further battle, although many may have concluded that a change of government is a sine qua non of victory on the age of consent issue. The Stonewall-backed challenge by three young gay men through the European Court of Human Rights seems weakened by the reduction to 18 years, as all three men are aged over 18 years. However, both Stonewall and Outright Scotland have declared their support for a renewed challenge, this time by a 16-year old gay man. In any case, were such a

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challenge to succeed, a delay of several years before legislative action is taken could result.

Our analysis suggests that in Scotland, as throughout Britain, the lesbian and gay rights lobby received a very positive response within the opposition parties. This would appear from the questionnaires to be at least partly attributable to the organisation and professionalism of the lesbian and gay lobbying groups. In addition to direct lobbying of MPs by organisations or individuals, the indirect ways in which the campaign may have impacted on MPs - for example, in determining the sort of arguments which were highlighted, and the language in which those arguments were couched - are also important. Although libertarian arguments proved less persuasive with Scottish Conservative MPs than with their English colleagues, arguments around equality, justice and citizenship rights did prove very effective in winning the support of non-Conservatives. By contrast, arguments against equal treatment under the law of homosexuals and heterosexuals which are rooted in religious objections to homosexuality carried little weight with the great majority of Scottish MPs, most of whom seem to have adopted a 'secular' approach. The fact that lobbying against equality tended to be couched in terms of religious fundamentalism may thus have proven counter-productive.

### **APPENDIX**

Statements by MPs on why they voted the way they did, or abstained:

'On the basis of equality and human rights.'

'It's a basic issue of equality - and there can be no half-way house to equality.'

'Issue is one of equality, not age - logic requires a common age of consent for all.'

'Voting for 18 - 21 is too old but the difference between heterosexual and homosexual love has to be acknowledged as does the later development of boys.'

'Longstanding belief in equalisation of age of consent, and commitment to liberal social attitude to personal behaviour.'

'For 16 for equal treatment and justice. For 18 when 16 fell.'

'I believe undue pressures can be put on young men. I do not believe in sexual promiscuity and do not consider that casual sex should be encouraged by society.'

'I believe the issue is one of equality under the law.'

'I believe it is totally unacceptable for homosexuals to be treated differently from heterosexuals under the law.'

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'Strong moral reasons.'

'On grounds of equality, and access without fear to advice and information. A number of individual constituents' letters, describing their own experience, made me even more resolved.'

'I believe that everyone should be treated equally irrespective of sex, age or ethnicity.'

'In the interests of equality and health education I voted for 16. I also think parliament should not confuse law and personal morality.'

'On issues of this nature I try over time to adopt a position which is in line with my general moral philosophy. As an atheist I pay little attention to the religious lobbies and veer toward the libertarian when legal changes are required.'

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