

Transcript of an Interview with Bill Gardner

Interviews with LGBTQ Elders completed by Keith Gemerek, Box 74

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Runtime: 29:40 minutes

Date: 11/17/04

[] = indicate extra information or uncertainties where scribe couldn't decipher what was said

Keith: And I'm Keith Gemerek. We're here interviewing Bill Gardner for the Elders of the Gay Community Project funded by the Mid Atlantic Foundation.

Jim: I'm Jim Haynes, acting as a substitute for Madeline Davis. Uh, and-and we're interviewing Bill Gardener at 1:31 on the eleventh-seventeen-'04.

Keith: And as our witness...

Don: And I am Don Licht. I am here as a witness for the project.

Keith: And you are?

Bill: I am Bill Gardner. I am sitting in the living room of my home at 1141 Delaware Avenue, Buffalo.

[someone in the background coughs]

Jim: Okay, Bill. This whole project is to attempt to record, for posterity, the people who have been major contributors, or at least contributors, to the gay and lesbian movement in Buffalo. And Madeline's question always is: Would you talk for a little while about the way in which you became involved in gay liberation in Buffalo and how you got to the point where you now are?

Bill: Well, that's a tall order Jim, but uh, essentially um, I was in the army in the 19-uh-50's. I got back to Buffalo in, uh, um, late uh 1950's. Went to law school here, got out of law school, uh, had uh—long the way I got married. And um, and yet there were these feelings that I couldn't put, uh, a handle on as to what was going on in me—what it meant. Um, and ultimately after many years with some help, I came to understand that I was gay. And um, uh, along the way I sort of sensed that there was some-some gay things happening in Buffalo, but I was frightened to death to be associated with them in a friendly or involved way. Um, in a large law firm which I still am, and uh it was—had a family, and it was always a matter of concern as to what might come of it. So, um, around the—among other things—around the 1960's, uh, I began to routinely represent anybody who would let me represent them, who had been charged with public lewdness or loitering in the park or something of that sort. Um, my goal was to find sooner or later someone who would be willing to challenge the uh-the loitering statute—actually, the consensual sodomy statute back then. I mean, it was a situation where gay people interacting with each other sexually—in public or private—uh, were criminals. And I was convinced it was unconstitutional and I wanted to—I wanted to fight that, but I had to have clients. So, uh, probably over a period of several years, maybe eight or nine years, I kept representing people for

free, always gave them the option to challenge the constitutionality. Most people wanted to—wanted to get out of it as quickly as possible. But finally, uh, a couple of guys said, “Yes, by golly, we are unhappy. We are mad as hell.” And they—they fought it. So, that led, ultimately, in the late 70’s—am I in the 70’s by now? I lose track of time. I think by this time it was the late 70s—it led to a case which we took to the court of appeals in Albany. And this, um, uh, resulted in a holding that the consensual sodomy criminal statute was unconstitutional. Um, which was, um, a real bodied blow to the police in a way. They found other things they could do against the gay people, but it-it really struck a blow for them. And from that, uh, I-I-I realized there was yet more to be done, but, uh, there was a period when, you know, nothing happened for a little while. And I think it was in about 1982—of course I had met a number of people along the way, you know, and always I was the guy who was friendly and cordial and uh—but never admitting that he himself was gay, even to himself. One morning, uh, I got a call—I think probably about 1982—from um, Bob Uplinger. Bob Uplinger was a, uh, teacher in the state department for youth, uh, taught in some of the detention homes [coughs]. He had been out on the street the night before, just commencing with friends and so on, and there was this guy who came up who seemed nervous but wanted to be friendly and with the group and everything. And one thing led to another, and it was just, “Hi, how are ya? Beautiful night.” All that stuff, until around midnight, when some uniformed police came along and said, “Okay, get outta here. Run home, all of you.” They were on North Street, which uh, was a—reputed to be a place where gay men would hang around, talk to each other, maybe solicit sex. But Bob had done nothing of that, and when the police told everyone to get on home, this fellow who was seemingly nervous and innocent and sort of out of place, um, said to Bob, “Oh, what do we do now?” [coughs] And it went back and forth, and Bob said, finally, thinking that this guy was a-and uh, an uncomfortable husband from the suburbs who wanted to experience something, said, “Well look, come up to the apartment, come on up to my apartment.” “Well, what do we do there?” He kept wanting to know what would happen. And then uh, “Just come on up” you know. And finally, Bob said, “Well, come on up, I’ll give you a blow job,” thinking, as he told it to me, that the individual would be asked to do something that he couldn’t do but receiving oral sex he could do. And immediately the badges came out, and he was arrested and so forth. Bob was incensed. He had done nothing wrong. He was simply friendly. He had been set up for this. He called me in the morning and uh—and I’m just running off, I’m sorry it’s a long story—but he-he uh he said, “Bill, I don’t care what it takes, I’m going to fight this if it takes me to the Supreme Court.” And of course, you know, people say that, just like they say, “I don’t care what happens—I’ll do it, or I’ll die.” We didn’t know, but it did end up on the Supreme Court. So, we-we made the motion in Buffalo City Court to declare the law unconstitutional, and we lost. We appealed it to the county court, which is the next step up, and we lost there too. And then, uh, it went to the state’s highest court, along with a case uh out of Syracuse with similar issues, and there we won. We won big time. It was, um—it was good, solid decision. Basically, on the premise that if consensual sodomy is legal, why is a polite, quiet, not intrusive [coughs] invitation to your apartment to commit consensual sodomy, illegal? [clears throat] This time, the district attorney was successful in getting permission to take the appeal to the US Supreme Court. And, [clears throat] ultimately, we argued the case was the first case in United States history where the rights—the constitutional rights of gay people as such—uh, were asserted in an open argument in the Supreme Court. It was the first gay rights case. And that particular case, it was sort of a draw uh because the DA had sort of narrowed his-his argument and left out an issue and so forth. Uh, the court sided that it was—they made a mistake, that it was okay to bring the case up. So, they

dismissed the appeal without reaching the merits. And we were, uh, left with a victory in New York. It was—it was at that point that I was more and more identified with the gay community. And um and-and uh and from that point on—you asked how did I get where I am—it just has been an evolution where I am an open and involved member of the gay community now, and I feel very comfortable about it. I'm, uh, a founder and member of the Buffalo Gay Men's Chorus, and then I've been involved in a whole lot of things. It took a long time, you know? It took a really long time. Its such a scary world out there for people who have things to protect and other people to protect. Uh, to-to deal with their own inner truth. But, that's basically the story in a nutshell.

Time stamp—10:31

Jim: Okay, could you say a little bit about your involvement with [inaudible] and HIV/AIDS? I know that you've been involved with that—

Bill: Oh yes, certainly. The um—I can't remember when I first met Ron Soverio, uh, but at some point, uh, Ron invited me to get on the board of this fledgling organization that he had. [clears throat] And uh—I say that he had it, but it had been established. I'm not sure who established it—and um...umm...it was not then known as AIDS Community Services. It had a different name. Um, and-and it was a—we literally met in an old house with very little space and so on, and I was on the board there for, um, a number of years. And then I um—in fact, you were on when I was I think, weren't you? And I um, and then at some point, left because I had a very busy schedule, and I had done what I could do there. I uh, I-I was involved periodically with folks in the HIV community, in-in terms of other organizations trying to work out their concerns, and work with them on it. And I've been involved with a lot of gay men in this area who died. Um, friends that I either was with at their homes as they were in their failing times or people that I just uh knew and was friendly with and close to. I was very close to a young man in North Carolina, um, having met him in New England, was with him when he died. It was-it was a tough period in time to go through.

Jim: Well, can you ultimately tell us what happened to Bob Uplinger?

Bill: Well, Bob Uplinger was a very brave guy. Uh, in the first place, he lost his job as a teacher. I worked with him trying to fight that, uh, but there was no way that the uh department of youth was going to keep a gay teacher who was so publicly identified with alleged illegal conduct. Um, Bob, after we won at the court in Albany, told me on the way home that, "You know, Bill, I really owe the comity something—the community something. And I'm going to found a group to help teenage people." And uh, and I thought he can't possibly do that, I mean, they'll crucify him. But by golly, he knew how to do it. He-he got a catholic nun to sit on the board. He got other reputable people to sit on the board. He worked with folks, and the ultimate result right now is our gay and lesbian youth organization, which is having a celebration dinner later this week—I think tomorrow, actually. [coughs] He uh—I-I-I began to lose touch with Bob a little bit, not for any reasons of, of um, unhappiness between us, but it's just that he was busy, and I was busy—all a sudden I realized he had moved to Florida. And um, I did see him once down in Florida—I think it was Tampa, but I'm not positive—and then, suddenly, lo and behold, I learned he had died of AIDS also. And uh, so we had a funeral for him to attend—a memorial service, whatever it was. Uh, Bob was a uh—he was one of those people who was courageous

enough to stand up and say, “This isn’t right. I will not take it. I don’t care what happens.” And uh, and to go right through it.

Time stamp—14:48

Jim: Yeah—

Bill: Takes some real backbone to do that.

Jim: I’m sorry?

Bill: It takes some real backbone to do that.

Jim: Yeah, yeah. And he had that. Okay, can you talk a little bit about how you perceive the gay community now and it has now begun to accept transsexuals and transsexualism, and where it might lead?

Bill: Well, when—it’s hard to know where the community these, or even if there is a real community in a sense. I mean, there are people who are subject to these jibes and, uh, discrimination and uh belittling attacks from others even though that’s not as overt as it used to be. They’re—they’re still hanging on to the edge, trying to get into the middle with everybody else where they can have their piece of the pie. I’m talking about society as a whole. And uh, the frustration leads—the frustration with limited amount funds and-and the differing ideas—leads to a certain amount of friction always. So, I think we’re still in that phase to a considerable—to some extent at least. But, I don’t think—don’t know about your perception, but my perception is it isn’t as bad as it used to be. We got a community center. We’ve got a sense of um, uh-uh a need to work together and to get what is needed for people. I go—my goodness, I go to a church that has three gay couples in it with children. These are adopted children. Uh, two very, very nice men have adopted a young boy from Russia, and he seems absolutely delighted with them. The-the child-parent relationship is-is a wonderful thing to behold. Two other men, uh, have adopted a baby that they bring proudly to church, and uh two, uh lesbians, uh who are somewhat older, have children who are eight, nine, ten, uh, up in that range, getting into teenage years. Um, from all appearances, they are the uh—you know, they’re just the best—the epitome of a good family in each case. And yet, we have a community now or a nation now that has so much trouble thinking of us as being family or legitimate caretakers or parent-uh-parenting people. It’s um—it’s kinda sad. And so, we-we have struggles we are going to have to go through for some time, and I—I’m hoping that the gay community in Buffalo as everywhere else will be working together, hanging together because there’s still enough out there working against us.

Time stamp—17:48

Jim: Oh yes, I think so. How do you see—you said you were a member of the Buffalo Gay Men’s Choir. And, how do you see that as having an impact upon, uh, people? I-I’ve been to all of their, um, concerts, and uh, I-I find them fascinating. I love to watch—listen.

Bill: It’s—you know—we make good music, I think. Um, I think though—I know we make good music. I mean, I’m not gonna be so modest here. Um...

Jim: [chuckles]

Bill:—And-and-and I know there's a spirt and a camaraderie there which is unique in my experience and closeness almost a familio relationship among 60, 70 men, if you can picture that as being possible. Um, I-I-I think that through working together, in the direction of song and performance and uh-and uh really working with good music and so on some fun and funny a lot of very serious music. Um, I think we are uh a visible, [coughs] cohesive, impressive community of gay men who are prepared to stand up in public and be seen and identified as such and not getting nervous or jerky if there's a television camera around taking pictures. I mean I have seen my picture in the newspaper once in a while, singing away. And of course, I realized some people out there see that... "Oh my god, I didn't know that."

Jim: [chuckles]

Bill: "What's he doing there?" There was a day when that would have worried me a lot. It doesn't anymore. I am who I am. And this is perfectly legitimate and wonderful. Um activity and um, people—I think we cant help but have some impact on the community both gay and straight.

Jim: Okay, as a final—as a final conversation that I'd like to have you make, if you feel comfortable doing so, since this last election, as a lawyer and as a person who sees the perceptions of what's going on in uh gay marriages and gay brides, what do you think is going to happen, the evolution of gay rights as a result of, um, this past election?

Bill: Well, [coughs] I'm not sure that the uh this past election is really going to have a great impact on the evolution of gay rights.

Jim: [thoughtfully] Mmm...

Bill: Um, But I think that there is a—you know—the more you gain, the more you push, the more progress you make, um, the more you are going to incentivize the people who are really, really offended the idea of us, into pushing back. And I think that more than anything else the gay marriage issue has incentivized, uh, those folks. Um, I-I -I've been reading some of the things in the paper and uh—and thinking about myself, I don't think the Republican Party as a total entity is going to be an anti-gay rights party. Um, because, it can't be. I mean there's not that many viable pounding Christian right-wing people in that party. There are right-wing political people. There are wealthy and concerned and conservative businesspeople, but they aren't necessarily terribly worried about what you and I may do in bed and with whom. Because some of the things they do aren't all that defensible, either. But they are concerned about is that they get their bigger piece of the pie. And that they get to achieve what they want to achieve. I think, frankly, I mean, I-I don't doubt that George Bush is um...genuine in his uh religiosity. Worries me a little bit that he is as genuine as he is.

Jim: [chuckles]

Bill: Because, uh, I'd like him to be more pragmatic. But I do think that the Republicans are very adept at using the religious right-wing, um, to get their votes. I mean, they'll try to get an amendment through against the gay marriage—it will not succeed. And they cannot get—in Congress—they cannot get the two-thirds vote. The real issue will be what happens in the states,

and uh [coughs] I'm afraid we're gonna lose quite a lotta states in terms of state constitutions. Uh, my hope is that uh we can keep the idea alive, maybe hold the immediate uh possibility of gay unions as a-as an immediate thing. And not get to the point where um gay marriage is so off the books that it can't even be addressed again. You had state constitutions that made it illegal for black people to marry white people. No problem. Came time for the US Supreme Court to declare all of that unconstitutional. It went away. The one nail in our coffin that would be terribly, terribly unhappy would be uh—and difficult to bear—would be if the amendment to the US constitution passed, because that would defang—that's not the word I want to use—that would disempower the courts from ultimately coming to the right solution. So, I think we've got—we got a battle ahead and its discouraging at times, but we've gotta just say, "Hey not everything comes fast. We gotta be in this for the long haul."

Jim: Okay, thank you. I think that was a very good interview, and we've about used up all of our tape. And uh—

Bill: Is that okay?

Jim: So, thank you very much, Bill.

Bill: You're very welcome.

Jim: I-I'm very sorry that Madeline isn't here to do these, but I have been you know I'm s-[inaudible]

Bill: You're doing fine.

Jim: I'm very interested in this whole thing as well, and uh, I've really enjoyed—I've been involved in gay liberation since, well 1967.

Bill: Since long before my time.

Jim: Yeah, I didn't know you at that time at all.

Bill: I was hiding in the closet.

Jim: Yes, but when you came out, you came out with a bang.

Bill: Well—

Don: To the benefit of us all.

Bill: I um, I almost came out with a bang that I couldn't handle. I got arrested once in the park myself.

Jim: [chuckles]

Bill: By that time, I had been fighting the um—these cases, all the time. I was the bane of the existence of the [inaudible] and they discovered that I had been the one that was caught up in the sweep at the park. [coughs] They didn't know whether to shit or go blind. Somebody came out

“Mr. Gardner, Mr. Gardner!” This is late at night at the police headquarters. “Are you an attorney?” “Yes, I am.” “Oh, oh, well look I’m—Mr. Gardner, I want you to know I—we didn’t know.” I said, “It’s okay, just process me through like everyone else.”

Jim: [chuckles]

Bill: And I tried to keep my calm although my guts were just riling. I could see it all over the newspaper the next day.

Don: It didn’t hit the newspaper.

Bill: They didn’t know whether they—what to do. Here is a big name, seemingly unphased and fearless attorney connected with a prestigious Buffalo law firm. Were they gonna hurt themselves by putting it in the paper, or help themselves by getting back at this bastard that had been giving them a hard time? And they hesitated for two, three, or four days, and by then it was old news. They wouldn’t make that mistake now. They would—it would be in immediately. Um, but the cops I know of from what a couple have said to me directly, and from what I’ve heard indirectly, have frequently rued the day that they didn’t blow me into the news on that occasion.

Jim: Well—

Bill: I’m not sure if it would have gotten into the newspaper that I was—in my firm.

[chuckles heard in background]

Jim: Well I think that—

Don: In terms of uh, the amendment to the constitution, essentially what that would be doing is making the group a second-class citizen.

Bill: Exactly, but as far as a matter of law’s concern, you could in theory get the votes—you could reinstitute slavery. As far as the legal system—you’d then have to consider, the only thing that would really be available at that point would be another revolution you know, [inaudible] or whatever. Um, but it-it-it makes you realize that we’ve made as much progress as we’ve made because the ability to amend the constitution would be very—would be tough and uh, happily so. You know, we have the flag amendment, we have the queer in school amendment. We have the antiabortion—we have all that stuff. If we could have gotten it down to something like 5% vote in Congress [inaudible]—

Jim: Don’t lose sight of your glasses over there.

Bill: So, hopefully, it will all work out well, but it’s not going to be over night.

Jim: Well we hope so.

Don: I bet. How do you read the separation of church and state in all of this?

Bill: Well, I think it’s going to be less [inaudible] with Bush uh [tape cuts off]

Time stamp—28:58

Interview Ends

Keywords: Mid Atlantic Foundation, Elders of the Gay Community, Buffalo Gay Men's Chorus, gay rights, consensual sodomy statute, loitering, Supreme Court, AIDS Community Services of Western New York

Key names: Bob Uplinger, Bill Gardner, Madeline Davis, Keith Gemerek, Jim Haynes, Don Licht., Ron Soverio*

*Unable to confirm correct spelling

Summary:

In this interview, Bill Gardner narrates his contribution to the gay rights movement as Buffalo lawyer and community activist. First discussing his personal journey as a closeted gay man taking on anti-sodomy cases pro bono, Bill recalls what it was like to represent Bob Uplinger in what became the first gay rights case to reach the Supreme Court. Bill further elaborates on his involvement in the Buffalo Gay Men's Chorus and AIDS Community Services before chiming in on the politics of the gay rights debate.