Legislative Assembly

Tuesday, 15 May, 1984

Mr Speaker (The Hon. Lawrence Borthwick Kelly) took the chair at 2.15 p.m.

Mr Speaker offered the Prayer.

OATH OR AFFIRMATION OF ALLEGIANCE

Mr Speaker reported the receipt from His Excellency the Governor of a Commission authorizing him as Speaker to administer the oath or affirmation of allegiance to Her Majesty the Queen required by law to be taken or made by members of the Assembly.

Mr Speaker reported also the receipt from His Excellency the Governor of a Commission authorizing Jack Richard Face, Chairman of Committees of the Legislative Assembly, in the absence of the Speaker, to administer the oath or affirmation of allegiance to Her Majesty the Queen required by law to be taken or made by members of the Assembly.

JOINT SELECT COMMITTEE UPON THE WESTERN DIVISION OF NEW SOUTH WALES

Message

Mr Speaker reported the receipt of a message from Legislative Council agreeing to the time and place appointed by the Legislative Assembly in its message of 10th May, 1984, for the first meeting of the Joint Committee to inquire into the Western Division of New South Wales.

PETITIONS

The Clerk announced that the following petitions had been lodged for presentation:

Moral Standards

The humble Petition of the undersigned citizens of Australia, New South Wales, respectfully sheweth:

That legislation should be introduced into Parliament to curtail, discourage, police and prohibit all material, whether in the form of printed matter, photographic reproduction, material representation, film

or video cassette, which is pornographic, lewd, distasteful or offensive in relation to the present and future kings and queens of Australia, our head of State, the Prime Minister and leaders of government in Australia and heads of religious beliefs of the citizens of New South Wales.

Your Petitioners therefore humbly pray:

That the New South Wales Parliament will protect the citizens of New South Wales from such things, which offend them and undermine community standards.

And your Petitioners, as in duty bound, will ever pray.

Petition, lodged by Mr T. J. Moore, received.

Drug Usage

The humble Petition of the undersigned citizens of Australia, New South Wales, respectfully sheweth:

That we support your efforts to strengthen our family and community life particularly by increased penalties for "drug pushers" and distributors. We, however, wish to register our firm opposition to any legal changes which would increase or encourage the distribution or availability of so-called "soft" drugs, such as marihuana. We believe such drugs to be harmful to the physical and psychological health of the individual and therefore to the interest of the community of which such individual is part. Although there is current controversy concerning the question of such harm it appears to us quite foolish to legalize and encourage the use of such drugs unless or until it be shown that such drugs are in fact harmless.

Any efforts to legalize the distribution or usage of such drugs will have the following results:

(1) Encourage and inculcate a social acceptability towards such drugs.

(2) Increase the volume of usage of such drugs in schools and the community by present users and by "drug pushers" through the proposed one ounce legal possession.

(3) Extend the usage of such drugs to persons who would previously have abstained because of the legal sanctions.

(4) Put pressure upon Parliament to establish and license import, manufacture and/or distribution of such drugs, that is, to regulate another industry contrary to the best interest of the individual and society.

(5) There would be the probable temptation to use such drugs as another source of State revenue.

We urge the Government to increase the medical and counselling facilities for the assistance of drug users and to expand existing drug referral centres and clinics. We have general confidence in the existing law and its sympathetic implementation by the police and courts.

Your Petitioners therefore humbly pray that your honourable House will, first, take no measures that could extend the major social problem of drug usage and, second, will oblige those who are promoting marihuana and/or similar drugs to prove without doubt that such drugs are harmless before any legalization of use is introduced.

And your Petitioners, as in duty bound, will ever pray.

Petition, lodged by Mr T. J. Moore, received.

Prostitution

The humble Petition of the undersigned citizens of Australia, New South Wales, respectfully sheweth:

That because some persons have said they see a great deal of merit in the legalization of prostitution and have encouraged the public to express their opinion:

Your Petitioners therefore humbly pray that the Parliament of New South Wales will:

(1) take positive steps to eliminate the exploitation of women and children through the degrading activity of prostitution;

(2) do nothing which would imply or encourage greater community acceptance of prostitution;

(3) appoint a select parliamentary committee to investigate ways and means of eliminating prostitution;

(4) introduce legislation which will protect, rescue and restore the women and children recruited and exploited through prostitution.

Your Petitioners therefore humbly pray that your honourable House will protect women and children, support the family, strengthen marriage and strive to eliminate the degrading activity of prostitution in New South Wales.

And your Petitioners, as in duty bound, will ever pray.

Petition, lodged by Mr T. J. Moore, received.

Animal Experiments

The Petition of concerned citizens of New South Wales respectfully sheweth:

Their desire for proper legislation to be brought down by the Parliament of this State to protect animals used in research.

Your Petitioners therefore humbly pray:

That your honourable House seek to allow animal welfare representatives regular access to laboratories, and that adequate penalties and enforcement proceedings for acts of cruelty be defined in the legislation. We pray that the legislation will prevent all animal experiments unless they are for medical research.

And your Petitioners, as in duty bound, will ever pray.

Petitions, lodged by Mr Neilly and Mr Yabsley, received.

George Street, Windsor

The Petition of the public, both resident and working, of Windsor, New South Wales, and surrounding townships and settlements, respectfully sheweth:

We are concerned at the planned closure of the main street of Windsor, George Street, by building a pedestrian mall, and the executed closure of another arterial road called The Terrace.

Your Petitioners therefore humbly pray:

That your honourable House will note that Windsor will be left with only one through road, that being Macquarie Street, a six-lane highway, which will make local traffic hazardous; consider that the business community and the general public will face unnecessary hardship as no better shopping facilities will be created by the closure, as no additional parking space is being planned, and as prospective customers will be forced onto Macquarie Street, that being the main road leading to other shopping centres located within and outside the Hawkesbury shire. We request you note that the development of the two shopping complexes is under consideration, but is in jeopardy if the influx of people will have to follow a meandering traffic pattern and the loss of parking spaces is not planned to be reprovided. Note that we seek the reasons why The Terrace has been closed at the present location. Note that the actions of the council in this matter are contrary to the wishes of the majority of the people resident and working in the Windsor area, and seek intervention by the Department of Environment and Planning to set aside this proposal.

And your Petitioners, as in duty bound, will ever pray.

Petition, lodged by Mr Rozzoli, received.

South Coast Transport Services

The Petition of residents and visitors to the South Coast region of New South Wales respectfully sheweth:

That we totally support the submission from the South Coast regional committee of the Combined Pensioners Association of New South Wales, which recommended an extension of railway services from Bomaderry to Eden either by normal rail track service or motor road or rail service, to run at least two days a week similarly to the rail and road services already operating in many other areas of New South Wales. We also support the extension of a rail and road service from Bombala to the coast.

Your Petitioners, therefore, humbly pray:

That your honourable House will take positive steps to improve transport facilities in the South Coast region, as requested in the submission from the South Coast regional committee of the Combined Pensioners Association of New South Wales.

And your Petitioners, as in duty bound, will ever pray.

Petition, lodged by Mr Hatton, received.

Lake Macquarie Municipality

The Petition of concerned residents and ratepayers of the Lake Macquarie municipality respectfully sheweth:

That the Lake Macquarie council has refused to rezone residential sized lots from non-urban A to residential A, as was done with similar lots in the original subdivision; and has refused to act upon suggestions for the preparation of a local environmental plan for the Wyee area; and has neglected the Wyee area and failed to have regard to the many requests put forward by the progress association in its priority list; and has not anticipated the developmental effects of the electrification of the railway line.

Your Petitioners therefore humbly pray:

That your honourable House will rectify this situation.

And your Petitioners, as in duty bound, will ever pray.

Petition, lodged by Mr Hunter, received.

Fassifern Subway

The humble Petition of the citizens of Fassifern and surrounding areas respectfully sheweth:

That consideration be given to an urgent alteration to the subway under the Toronto railway line in Fassifern Road, Fassifern.

Your Petitioners therefore humbly pray:

That design work be carried out, and alterations made, to improve the safety of this subway, which was constructed to account for the traffic of yesteryear. With the increase in population, the increase in heavy coal carrying vehicles, and the proposed electrification of the railway, a wide section of residents are now put at risk at this subway; these include children going to school, people walking to the railway station, and people driving cars in the heavy truck area.

Petition, lodged by Mr Hunter, received.

Pedestrian Crossing for Victoria Road

The Petition of citizens of the Ryde electorate respectfully sheweth:

That there is a pressing need for the provision of a pedestrian crossing between Kissing Point Road and Spurway Street, Ermington. The locality contains a number of elderly people who have been caused much distress and inconvenience by not being able to cross this road with safety.

Your Petitioners therefore humbly pray:

That your honourable House will take note and ensure that a pedestrian crossing is established between Kissing Point Road and Spurway Street across Victoria Road, Ermington.

And your Petitioners, as in duty bound, will ever pray.

Petition, lodged by Mr McIlwaine, received.

Moral Standards

The humble Petition of the undersigned citizens of Australia, New South Wales, respectfully sheweth:

That we, the undersigned, having great concern because of the spread of moral pollution in our State call upon the Government to introduce immediate legislation:

(1) To give positive support to the Lord Mayor of Sydney and other local government authorities in their attempts to clean up moral pollution in our communities, such as brothels, sex shops and prostitution.

(2) To give local government authorities the power to reject applications from individuals or companies for moral pollution centres which are against the public interest such as so-called sex shops, live sex shows, blue movie cinemas, massage parlours (brothels), escort services (prostitution), et cetera.

(3) To tighten up the standards used by the New South Wales Indecent Publications Classification Board so as to include the total prohibition of any pornographic publication or film containing child pornography, bestiality, sodomy or violent sex acts against women, such as rape and pack rape, sadism and torture, et cetera.

(4) To provide strict controls over video cassettes with the open sale of only G-, NCR- and M-rated video cassettes; and the total prohibition of the sale of R-rated video cassettes so that R-rated films can be viewed only in theatres for adults and by persons more than 18 years of age. We totally reject the concept of X-rated video cassettes, which would allow the legal sale of hard-core pornographic films for screening in the homes of our nation.

Your Petitioners therefore humbly pray:

That your honourable House will protect our society, especially women and children, from moral pollution and its harmful effects.

And your Petitioners, as in duty bound, will ever pray.

Petition, lodged by Mr McIlwaine, received.

Sydney Harbour Bridge Train Noise

The Petition of certain residents of New South Wales respectfully sheweth:

That the noise generated from trains on the Sydney Harbour Bridge, and the northern approach to the bridge, is causing extreme distress to residents of Kirribilli, Milsons Point, North Sydney and McMahons Point:

Your Petitioners therefore humbly pray:

That your honourable House will immediately take action to reduce the noise by well recognized means which are available.

And your Petitioners, as in duty bound, will ever pray.

Petition, lodged by Mr Mack, received.

Sewage Treatment

The Petition of concerned citizens of New South Wales respectfully sheweth:

That for the removal of sewage pollution from our beaches, the rehabilitation of impoverished soils, the careful use of our resources and for the maintenance of the health of our citizens, measures be taken to put an end to the waste of our recyclable resources so that our used water is treated, purified and recycled for maximum use; so that our sewage, sludge and selected garbage is combined to make hygienic soil improving compost; and so that this compost is available for sale and use on farms and gardens.

Your Petitioners therefore humbly pray:

That your honourable House will take all steps necessary to set up a commission of inquiry to determine the best methods of accomplishing the above.

And your Petitioners, as in duty bound, will ever pray.

Petition, lodged by Mr Mack, received.

Second International Airport

The Petition of members of the public resident and working within the shires of Hawkesbury and Baulkham Hills and contiguous areas respectfully sheweth:

Total opposition to a second international airport for Sydney being built within Hawkesbury and Baulkham Hills shires.

Your Petitioners therefore humbly pray:

That your honourable House will note that such a proposal will result in the destruction of the historic village of Pitt Town, Longneck wildlife reserve, significant Aboriginal relics and the historic Scheyville camp, and will irreversibly alter the character of the five Macquarie towns. The resulting intolerable pollution of the Hawkesbury River should be considered. It should be noted that approximately 2 000 properties wil be resumed, displacing more than 5 000 residents. The enormous costs of overcoming the technical objections to such a site must be taken into consideration. The detrimental effects of noise, air and vehicular pollution on many thousands of residents in the surrounding districts of Hawkesbury, Baulkham Hills and Hornsby shires and Blacktown and Penrith cities must be considered. Immediate consideration must be given to the finding of a more suitable alternative site.

And your Petitioners, as in duty bound, will ever pray.

Petition, lodged by Mr Caterson, received.

Convictions of Anderson, Alister and Dunn

The Petition of the citizens of Australia respectfully sheweth:

That Timothy Edward Anderson, Paul Shaun Alister and Ross Anthony Dunn were convicted of conspiring to murder the National Front leader, Robert John Cameron, and were sentenced to sixteen years gaol with no non-parole period, on the basis of information supplied by

an *agent provocateur* who had a criminal record for drug addiction and a history of mental instability and deception, and on alleged oral confessions which the three accused strongly and consistently denied ever having made.

That these two principal sources of evidence for the prosecution, namely the *agent provocateur* and the alleged confessions do not constitute sufficient and reasonable grounds for a conviction; that the spectre of the Hilton hotel bombing, which was generated by the media and the prosecution, haunted the case and created an atmosphere within the courtroom and in the community that was extremely prejudicial to a fair hearing of the case.

That, taking the above into consideration, a serious miscarriage of justice has occurred which resulted in three young men being gaoled for sixteen years and tainted by a horrendous crime in which lives were actually lost.

Your Petitioners therefore humbly pray:

That your honourable House will heed the call of the citizens of Australia to examine the evidence as presented by the prosecution; to bear in mind the many objections that have been raised about the use of *agents provocateurs* and alleged confessions to gain convictions and, in the event that you are left with a concern that justice has not been done, to exercise the Crown's prerogative in alleviating the continuing suffering of the three young men and their families and friends by taking immediate steps to secure their release.

And your Petitioners, as in duty bound, will ever pray.

Petition, lodged by Mr Petersen, received.

Moral Standards

The humble Petition of the undersigned citizens of Australia, New South Wales, respectfully sheweth:

That we, the undersigned, having great concern because of the spread of moral pollution in our State call upon the Government to introduce immediate legislation:

(1) To provide strict controls over video cassettes with the open sale of only G-, NRC- and M-rated video cassettes so that R-rated films can only be viewed in an adult theatre by persons over 18 years of age. We totally reject the concept of X-rated video cassettes which would allow the legal sale of hard-core pornographic films for screening in the homes of our nation.

(2) To tighten up the standards used by the New South Wales Indecent Publications Classification Board so as to include the total prohibition of any pornographic publication, video cassette, or film containing child pornography, bestiality, sodomy or violent sex acts against women, such as rape and pack rape, sadism and torture, et cetera.

Your Petitioners therefore humbly pray:

That your honourable House will protect our society, especially women and children, from moral pollution and its harmful effects.

And your Petitioners, as in duty bound, will ever pray.

Petitions, lodged by Mr Amery, Mr Armstrong, Mr Baird, Mr Caterson, Mrs Foot, Mr Hunter, Mr Irwin, Mr Langton, Mr McGowan, Mr McIlwaine, Dr Metherell, Mr T. J. Moore, Mr Page, Mr Smiles, Mr West and Mr Yabsley, received.

De Facto Relationships

The humble Petition of the undersigned citizens of Australia, New South Wales, respectfully sheweth:

That we, believing that marriage should enjoy the favour of the law and that *de facto* relationships should not be encouraged, call upon the Government to reject the recommendations contained in the report of the New South Wales Law Reform Commission on *de facto* relationships, of June 1983, on the basis that the aforementioned recommendations seek to legalize cohabitation agreements, provide for a form of registration of *de facto* relationships and otherwise grant to people living in *de facto* relationships the same or similar legal rights as married people in the matters of financial adjustment, adoption of children, inheritance of property and accident compensation. The recommendations will undermine the institution of marriage by promoting *de facto* relationships as an acceptable alternative thereto, will grant legal rights to *de facto* partners to the detriment of the legal rights of married spouses and their children and will add substantially to the costs faced by the community. The recommendations fail to take into account the best interests of children by making them subject to adoption by *de facto* partners, and will encourage *de facto* relationships and thereby increase instability in family life.

And your Petitioners, as in duty bound, will ever pray.

Petitions, lodged by Mr Amery, Mr Baird, Mr Caterson, Mrs Foot, Mr Irwin, Mr Langton, Mr McGowan, Mr McIlwaine, Dr Metherell, Mr T. J. Moore and Mr West, received.

Homosexuality Laws

The humble Petition of the citizens of Australia, New South Wales, respectfully sheweth:

That we support your efforts to strengthen family life and protect children. We therefore wish to register our firm opposition to Mr Wran's private member's bill, which would effectively legalize sodomy by repealing section 79 of the Crimes Act. We totally oppose any moves in Parliament to legalize sodomy, or buggery, which God calls an abomination. Such moves would imply community approval and acceptance of these unnatural, unhealthy and immoral acts, which would therefore also permit public soliciting and put teenagers at risk.

Your Petitioners therefore humbly pray:

That your honourable House will take no measures that would legalize sodomy, and so undermine marriage, child care, or the family, which is the basic unit of society.

And your Petitioners, as in duty bound, will ever pray.

Petitions, lodged by Mr Amery, Mr Armstrong, Mr Baird, Mr Bannon, Mr Beckroge, Mr Caterson, Mr J. A. Clough, Mrs Foot, Mr Hay, Mr Kelly, Mr Knight, Mr Knott, Mr Knowles, Mr Langton, Mr McIlwaine, Mr Mack, Dr Metherell, Mr Mochalski, Mr Mulock, Mr Page, Mr Park, Mr Punch, Mr Rozzoli, Mr Schipp, Mr Smiles, Mr Wilde, Mr Yabsley and Mr Yeomans, received.

QUESTIONS WITHOUT NOTICE

MINTO–TOOLOOM EMPLOYMENT PROJECT

Mr GREINER: My question without notice is addressed to the Minister for Employment and Minister for Finance. What reasons did the Minister have for publicly vetoing on 24th April the Minto–Tooloom job creation project? As most of the money for the project is to be provided by the Commonwealth, what are his objections to this ambitious and worthwhile scheme?

Mr Walker: Responsibility and integrity.

Mr SPEAKER: Order!

Mr GREINER: Is the Minister aware of a departmental report on the project to the federal Government which totally rejects the hatchet job done on the scheme by the State Office of Special Employment?

Mr DEBUS: I have been thinking of nominating some of the people associated with the Minto–Tooloom project, including the Leader of the Opposition, for an Emmy award for the number of news media events they have organized with respect to it. Honourable members will possibly recall the hunger strike that was organized for the benefit of the television cameras some weeks ago. I was anxious that this might be doing some damage to the 14-year-old and 15-year-old children that were engaged in the hunger strike, but my fears were somewhat allayed when it was reported by observers on the spot that the children engaged in the hunger strike were feeding up on fish and chips at the shop round the corner. The Minto–Tooloom accommodation project was informed on 9th November, 1983, by the former Minister responsible for approving job creation projects in New South Wales, that its project had been rejected. This project proposed to employ young people from the Minto area outside Sydney on a building project on the Far North Coast of New South Wales.

After consideration of the project on a number of occasions, the community employment programme consultative committee has recommended its rejection. Detailed investigations have been carried out by a number of authorities and responsible organizations; these include the Department of Youth and Community Services, the Office of Special Employment and the Department of Public Works. Following a deputation to the former Minister, further investigations including a site visit were carried out. On the basis of that information, the former Minister acted on the advice of the consultative committee and rejected the project. I have in the meantime looked at all aspects surrounding that project and seen no reason to change the decision. As Minister for Employment I am, of course, conscious of the need to employ young people in the Campbelltown area. Many projects have already been approved in Campbelltown under employment schemes administered by the New South Wales Government's Office of Special Employment and these projects have already provided full-time employment for 64 young people and part-time employment for 140 more.

I would, I should say, be more than willing to consider another employment project targeted at young people if Minto–Tooloom Accommodation Pty Limited wish to submit one. But any future project should be based in some area more suitable than that chosen for the original project. I shall now, for the benefit of the Leader of the Opposition, list some of the objections that have been made by responsible officers of the State and federal Governments to the project.

Mr Greiner: No, the federal Government has endorsed the scheme.

Mr DEBUS: The federal Government report to which the Leader of the Opposition refers, a leaked report, nitpicks about a number of small aspects of the project. It does nothing whatever to go to the totality of the problems involved in that programme. Here is a list of them. There is uncertainty about the objectives of the project. It has been variously described as a farm, a tourist camp and alternative holiday accommodation for families in need. There is uncertainty about the structures that will be built. Currently, the structures are proposed to be timber, of an uncertain design.

There is uncertainty as to the management and control of the project after its completion. The land and buildings would be owned by the company and that company is under no obligation to act in any particular way after the completion of the project. The project is isolated, in rugged country, and has access problems. It was completely cut off in recent floods. This will inhibit the transport of materials to and from the site and could create problems for the health and safety of the individuals working there. No one responsible for the project has building skills. The committee is relying on informal, free advice and would hope to attract a building supervisor from the long-term unemployed. The proposed employees, fifteen in number, are unskilled and at risk 15-year-olds to 16-year-olds with no building skills and limited experience of living in isolated areas. The only supervision for the employees would come from the project manager. The employees would be expected to live in tents in all weather, while the construction and installation of services were taking place.

The costings of the project are uncertain. A number of submissions have been lodged containing inconsistent costings. Lismore council has given development consent but only on the basis that an all-weather road to the site is constructed and that the accommodation not be used for permanent accommodation but only for holiday accommodation with a maximum stay of six weeks. The programme requires the payment of award wages to employees but there is a strong likelihood that employees would be paid on the basis of what the project would bear rather than at the award rate. The future use of the site by people working on it is uncertain, although it is likely that some of the young people could stay on in an unspecified capacity. Because of its isolation, support services to the young people could not be provided by departments such as the Department of Youth and Community Services except on a spasmodic basis. In the current submission labour costs appear at 47 per cent of total project costs. Though labour costs are negotiable under the Community Employment Programme, the stated cost of materials and roadworks appears to be quite artificially low. The ultimate real cost would make the project much more capital intensive and therefore outside the guidelines of the Community Employment Programme. Even if the project were more obviously appropriate in terms of the job creation guidelines, the total amount sought is $300,000. That represents more than 25 per cent of the funding available to the Campbelltown area for job creation schemes conducted by community groups in the present round of CEP funding. So, beyond all the objections that I have listed—and there are more—there would remain a question, and a serious one, whether the scheme should be given priority over other problems in the Campbelltown area.

SEX EDUCATION

Mr PETERSEN: My question without notice is directed to the Minister for Education. There have been suggestions in some sections of the press that, with the passing of legislation to decriminalize homosexual activity, teachers will be required to teach about homosexuality as an appropriate lifestyle. Could you explain the impact of the proposed legislation on sex education in schools?

Mr CAVALIER: I am grateful to the honourable member for Illawarra for providing me with this opportunity to acquaint him and the House with the reality in terms of public education by the present programmes under personal development, and to intimate to the House and the people of New South Wales the number of quite pathological lies that have spread about homosexuality in our schools which are motivated by nothing more than malice. Let me say at the outset that the Department of Education and the Government see schools as neutral territory for rational discourse and objective study, where discussion of controversial issues is acceptable and should be welcomed only where it clearly serves the purpose of the schools educational programme. Such discussion should not be intended to advance the interests of any particular group and teachers are expected not to allow their personal views to intrude. Teachers are expected to acknowledge and to respect the views and rights of parents and students. Since 1975—with a previous government—following wide consultation with the community, sex education in New South Wales has been offered as part only of a broad programme of personal development in secondary schools. It is known accordingly as the personal development programme. Since 1981, the programme has been approved for introduction in years 5 and 6 of the primary school. Sex education is not compulsory, nor is it offered to all schools.

The following basic principles are involved in the personal development programme. It is a broad programme concerned with developing self-esteem, decision-making ability, a concern for others and an ability to form satisfying and lasting relationships. Parents are consulted about its introduction and about the content and resources for the programme. Parents have the right to withdraw their children from all, or any part, of the programme. Teachers are selected for their suitability to teach in a very sensitive curriculum area. It is remarkable that, for all the alarms that are raised about these matters being taught in schools, few complaints have been made. In-service courses are regularly held for teachers and have proved popular and successful. Resource materials are developed and reviewed by officers of the personal development unit for the guidance of teachers. Members of the unit—three, including a school counsellor—liaise with outside organizations producing relevant materials and field questions from the public on controversial issues. Homosexuality may be discussed within the personal development programme. This would usually be at the instigation of students. That will not be altered by the passage of any legislation in the House. Parents, however, have the right to veto proposals for inclusion of subject matter to which they object, or to withdraw their children from any section of the programme.

The Department of Education has rejected the suggestion that homosexual teachers should be the ones to deal with this question in personal development classes. The department has also rejected the suggestion that the subject of homosexuality should be included for study in personal development programmes in primary schools. The decriminalization of homosexual activity between consenting males over 18 years of age will not affect the presentation or content of the personal development programmes in New South Wales government schools. Certainly it will not result in the promotion of a homosexual lifestyle within these programmes. The object of this personal development programme is to create a forum within which children can themselves initiate discussion of areas of concern or misunderstanding. On that basis the House should proceed in its consideration of important matters.

LAND TAX

Mr PUNCH: I direct a question without notice to the Minister for Employment and Minister for Finance. In view of the Minister's statement that claims made by me of huge increases in land tax, some up to 7 000 per cent and more, are false and

hypocritical, will he now deny the accuracy of figures compiled in Ballina and Byron shires recently which support the validity of my claim? Will he deny that land tax payable by one commercial shop owner in Ballina has increased from $101 last year to $3,367 this year, an increase of 3 227 per cent, or that the land tax payable by a hotel owner in the same area has increased from $13.50 last year to $1,027.50 this year, an increase of 7 800 per cent? Further, will the Minister deny that these huge and unrealistic increases are occurring throughout the State and that the State Government has done nothing to control the increases?

Mr DEBUS: I do not recall describing the Leader of the National Party as a hypocrite, at least in respect of this particular matter. The facts, or alleged facts, which he incorporates in his question are not matters to which I can respond immediately, but if he cares to supply me with a copy of those details, I shall respond to them at some appropriate time. I take this opportunity to refer to an article in last night's *Sun* in which one read a good deal about a Mr and Mrs Moore whose neat weatherboard home had been revalued from $33,000 in 1977 to $160,000 in 1983, and in consequence of which their land tax had risen from $19 to about $2,500. The newspaper story suggested that the couple now faced the prospect of selling their week-ender, or that at least the wife of the couple had to go out to work to pay land tax. It seems to me that honourable members should look a little more closely at these sorts of hard luck stories before leaping to any conclusions about the alleged harshness of land tax.

For the past seven years the couple referred to in the newspaper article have seen their investment rise in value by 485 per cent, giving them a potential tax-free capital gain of $127,000. Mrs Moore has to pay 30 per cent tax on her wages; but there was no real complaint about that. However, some people were scandalized when that same family was asked to pay 1.5 per cent on this otherwise windfall profit. This particular example involved a so-called week-ender fronting Brisbane Water. It turns out that the house is situated on two lots with a total area of more than 2 000 square metres, which is about the size of three normal building blocks. This modest week-ender has a waterfront of more than 40 metres, or 130 feet on Wagstaff Point in a residential area. This may be a modest week-ender to some Opposition members, but I find it difficult to regard people who own that sort of property as battlers or tax victims.

[*Interruption*]

Mr SPEAKER: Order! I call the Leader of the National Party to order.

Mr DEBUS: I repeat the statement made on at least four occasions in the past few months, that taxation concessions granted for the 1984 tax year increased the exemption level from $30,000 to $50,000 and the minimum assessment from $10 to $50. These measures ensured that 40 000 people who would otherwise be liable to pay land tax on their investment properties are not required to do so. A lifting of the tapered concession from $60,000 to $75,000 gave relief to a further 21 000 taxpayers. I reiterate that most people who own only the house in which they live are not liable to pay any land tax. This is a longstanding exemption. For those who are fortunate enough to have extra money to invest in real estate, their potential tax-free capital gains and income-earning capacity of properties continue to bring them handsome returns. Land tax is levied at the low rate of between 0.3c and 2.4c in the dollar. This is a small charge on what the community at large deems to be a highly valued asset, as reflected in rising land valuations. The Government has given undertakings to review the provisions of the Land Tax Act during this year; any changes will be announced in the Budget context.

TOTALIZATOR AGENCY BOARD BETTING

Mr HUNTER: My question without notice is directed to the Minister for Sport and Recreation and Minister for Tourism. Has the Minister seen reports that metropolitan racing clubs have blocked moves by the Totalizator Agency Board that would have allowed betting to continue until immediately before the start of a race? Are these reports correct? Will the Minister inform me and the House what plans, if any, exist to allow punters to continue betting until closer to the starting time of a race?

Mr CLEARY: I am indebted to the honourable member for Lake Macquarie for his question. I was concerned at a report in the late edition of yesterday's *Daily Mirror* in which the headline was probably more sensational than the story, which stated that starting price betting had a win. Since this Government came to office, through the Minister for Police steps have been taken to crack down on starting price betting activities. To provide an alternative to starting price betting Pub TAB was introduced. Pending receipt of more information, about twelve months ago, the Totalizator Agency Board deferred making a decision on this matter. Victoria had introduced legislation permitting betting on the TAB right up until the starting time of a race. The Government has received a report on the effect of that legislation, which indicates that it has had no effect on oncourse betting turnover or attendances at race meetings. The Victorian authorities say that there may have been a loss of what is called the value punter, who watches the variation between the prices offered by legalized bookmakers and the totalizator, before deciding where he will get the best odds.

The Australian Jockey Club, the Sydney Turf Club, and other racing interests were concerned that this proposal might have an effect on on-course punting because of the laying off exercise conducted by bookmakers, and because of the effect of a bigger percentage being received by the racing clubs. The offcourse and oncourse percentage distribution is 8 per cent and 6 per cent respectively. After examining this question, I have concluded that the Victorian concern over the value punter was not warranted. In April of this year when addressing the board of the newly created TAB I said that I wanted an urgent decision from them on this matter. The TAB has reported to me that at present it can handle betting up to two minutes before race starting time. Though betting up to commencement of a race will be possible in the future, the TAB considers at this time that because of technical problems that could occur with the computer, two minutes prior to race time is the safest cut-off point. I expect the board to provide me soon with a recommendation on two-minute betting. The Government is concerned that the New South Wales punter has the best possible service, and therefore, the *Daily Mirror* report was off target. I reiterate, New South Wales will soon have a system of betting up to two minutes before starting time.

STUDENT DISCIPLINE

Mr PICKARD: I address my question to the Minister for Education. What action has the Minister taken following allegations that a teacher at York Public School, Penrith, held a rope to the neck of an 8-year-old student before tying him to a chair? Is the Minister aware of further allegations of abuse against the child and has he now established explanations for such action? What reasons were given by the department for transferring the teacher involved to another school, and have parents at that school been advised of the methods of punishment used by that teacher?

Mr CAVALIER: I should establish close to the outset of my administration of this portfolio that I will not lend this Parliament or my own office to the dissemination of sensational allegations. The situation at York school in Penrith is disturbing. The

allegations were reported to me almost immediately, and the Director-General has taken certain measures. To go into all the details will not assist the child in question, the reputation of that school, or the quality of public education in New South Wales. If the honourable member has further allegations to make, he should put them in writing and address them to me so that I can put them before the Director-General. The Department of Education has appropriate procedures to handle such matters. This matter has been handled to my satisfaction, and will remain at that point.

DEATH OF PRISONER

Mr LANGTON: I address my question to the Minister for Corrective Services. Is the Minister aware of recent press reports relating to the death of a young offender at Long Bay Gaol? Is he also aware of Opposition statements that young offenders should not be detained with case-hardened criminals? Will the Minister inform the House of measures taken to separate young offenders from hardened criminals.

Mr AKISTER: I congratulate the honourable member for Kogarah on the concern he has shown over many years for the prison system in this State, and especially since his election to this House. As members will be aware, as the matter is the subject of a coronial inquiry, there is very little I can say about the death of this young person, Mauro, in Long Bay. My department has medical reports which disclose that this young person was not sexually assaulted prior to his death. Suggestions have been made of a cover-up by my department about the supply of information on this young man's death. I would like to inform honourable members, and in particular those opposite, on the procedures in which details of any incident in the New South Wales prison system are handled by the Department of Corrective Services. The procedure about supplying information to the news media about any incident, serious or not, in the New South Wales prison system has operated successfully under this Government.

The procedure for notifying the media about incidents in the New South Wales prison system, serious or not, in recent years has been and will continue to be this: that whenever there is an incident, the prison superintendent, or on weekends the deputy superintendent, is notified. In turn he notifies the chairman and the ministerial press secretary. The press secretary informs the Minister about all incidents, depending upon their seriousness. Information on all incidents, from escapes by minor offenders to assaults, suicides or murders, is supplied at any time of the day or night. When police are called to investigate a serious incident in the prison system, information is forwarded to the police public relations branch. Such information is supplied to the news media at the daily police press briefings. However, it must be pointed out that on that particular day, that is, 15th April, this young man's death occurred at a time when police throughout the city would have been involved with investigating the bombing of the Family Law Court at Parramatta.

At times the media seek more information on a particular prison matter, and the press secretary is contacted or I am contacted. Where possible additional information is supplied. In that respect I might add that neither the *Sydney Morning Herald* reporter, Mr Bailey, nor the honourable member for Murray had the decency to contact anyone regarding the very serious allegations that they had made in respect of this prisoner. Allegations in the *Sydney Morning Herald* articles that this young offender was believed to have been raped prior to his death are baseless. In the public interest, the timetable of Mr Mauro's movements needs to be outlined, from the time he was received into the Central Industrial Prison. Mauro was received into the prison between 10.30 a.m. and 11 a.m. on Saturday, 14th April, and after personal details were taken from him by prison officials he was placed in a cell on his own.

He remained in that cell on his own throughout the lunch lock-up period. Following the lunch lock-up period Mauro made application to be placed in protection, claiming to prison officers that he was being harassed by other inmates. Mauro was placed in the programmes protection unit of the Central Industrial Prison at approximately 1.15 p.m. that afternoon and allocated a cell, which he again occupied on his own.

At no time did the prisoner Mauro give any information to a prison officer that he had been assaulted, or sexually assaulted. On Sunday, 15th April, Mauro and other protection prisoners exercised in the yard of the programmes protection unit and were supervised by prison officers. Late in the morning the prisoners were mustered for lunch and moved back into their cells. Mauro again occupied a single cell. At the completion of the lunch lock-in, at approximately 1.20 p.m. the unfortunate Mr Mauro was found to be hanged in his cell. The Department of Corrective Services makes every endeavour to protect prisoners who fear for their safety; and for any section of the media or member opposite to suggest otherwise is to be condemned. Any prisoner may seek to be placed in protection, as Mauro did on one other occasion while being held in custody in the Metropolitan Remand Centre last July, or a superintendent can recommend protection if he or she feels it is in the best interests and safety of the prisoner. As regards the separation of young offenders from case-hardened criminals, within the department is a classifications committee which classifies prisoners as quickly as possible upon their receival into a gaol. That committee, which consists of senior and experienced departmental officers, determines where a particular prisoner should be detained. Opposition members, and in particular the Opposition spokesman on corrective services, say that young offenders should be separated from hardened criminals. I and the Department of Corrective Services already have instituted those procedures and will continue to provide separation where it is appropriate.

EGG INDUSTRY

Mr ARMSTRONG: My question without notice is addressed to the Minister for Corrective Services, representing in this House the Minister for Agriculture and Fisheries. Is it a fact that the present trouble in the egg producing industry is the result of the reluctance of the New South Wales Government to administer effectively the Act governing the industry? In view of the fact that all sections of the industry are opposed to the confiscation of hens as a penalty, will the Minister for Corrective Services ask the Minister for Agriculture to amend the present Act by deleting the penalty requiring the confiscation of hens and replacing it with increased fines for persons convicted of offences against this Act?

Mr AKISTER: The honourable member has asked me to request the Minister for Agriculture and Fisheries to undertake certain actions. I am not sure that such actions are appropriate or necessary, but I shall refer the import of the honourable member's question to the Minister for Agriculture for his consideration.

FAKE PARKING INFRINGEMENT NOTICES

Mr DAVOREN: I ask the Minister for Police and Emergency Services a question without notice. Is the Minister aware of an article in this morning's print media which refers to a series of fake parking infringement notices that are currently being placed on car windscreens? Is he aware that these are in fact advertising circulars for a mail order publication called "Save Your Licence—The First Ever Driver's

Survival Guide"? In view of the obvious distress these notices have caused recipients, and the fact that the publication purports to contain hints on how to break the law, will the Minister advise of any proposed action?

Mr ANDERSON: I inform the honourable member that I am aware of both the article to which he refers, and the circulars which I understand are being distributed in a number of areas. I noted the reported distress of the motorist who returned to his legally parked motor vehicle to discover what he thought was a parking infringement notice on his windscreen. No doubt that situation has been repeated on a number of occasions so far as others are concerned. That consideration aside, there are a number of other aspects concerning these fake parking tickets which are of concern. I should point out that these notices are contained in the familiar brown envelopes, with only the official government logo missing. The notice makes a number of interesting claims. One is how to spot a police car, which is not all that difficult. Another is what to do in court. One of the number of others states "Retired traffic cops reveal interesting facts and secrets," et cetera.

I can inform the House that on becoming aware of these notices late last week I referred a copy to police for advice. I understand the police have visited the gentleman concerned with this publication and have made initial inquiries about this matter. I understand the officers were unable to obtain a copy of the publication and were informed that it had not yet completed the production phase. I understand they gained the insight that the tip for avoiding parking tickets was to put an old ticket under the windscreen wiper. That is a system which, at the very least, hopes for the best. I can assure the public and anyone else who thinks that system works that parking patrol officers and members of the police force performing that phase of their duties are well aware of that tactic to avoid appropriate measures under the law. Might I say that at this stage I do not think I would part with $14.95 for the publication, and I urge members of the public to adopt the same stance.

PARLIAMENTARY ELECTORATES AND ELECTIONS ACT

Mr DOWD: My question, which is without notice, is addressed to the Premier and Minister for the Arts. In the recent general elections, was a ruling sought as to the meaning of the word "lived" for an elector of Peats seeking enrolment under the Parliamentary Electorates and Elections Act, from two well-known, independent Queen's Counsel, namely Mr Michael Grove, Q.C., and Mr Michael McHugh, Q.C., by the State Electoral Commissioner? Did that ruling widen the meaning of "live" considerably to cover people who spend as little as a few hours a week in a residence? Will the Premier make available to the general public those advices so that all members of the public may take advantage of the widened definitions to place them in the same legal position as that elector, David Paul Landa?

Mr WRAN: The question is asked with a flippant air, and I do not propose to answer it.

COMMONWEALTH CLUB

Dr REFSHAUGE: I address a question without notice to the Minister for Consumer Affairs and Minister for Aboriginal Affairs. Has the attention of the Minister been brought to the activities of an organization known as the Commonwealth Club? What is the relationship between this club and the more well-known Commonwealth Club? What will the Minister do about confusion over the actions of those organizations?

Mr PACIULLO: The honourable member's question gives me an opportunity to detail the activities of one of those persons who deals in dubious business practices, a subject about which I spoke in the House last week. The Commonwealth Club is a get-rich-quick scheme that was started by Stanley Freeman, who is known also as Stelios Eleftheriadis. Mr Freeman resides in Thornton Street, Darlinghurst, and uses an address in Bowen Place, Maroubra, as his registered business address. He operates also under the business names of East Side Art Studio and Cosmo Travel Friends. He describes himself as an accountant, and the only means of contacting him by telephone is by leaving a message at a particular telephone number. The Commonwealth Club can be described only as a pyramid-style, multi-level get-rich-quick scheme, containing a strong warning to sellers to provide a product to all buyers, no matter how inexpensive it may have been to produce. I must say straight away that the Commonwealth Club is not associated with the Royal Commonwealth Society, which is a thoroughly reputable organization well known throughout the British Commonwealth; nor does it have any relationship with the Commonwealth Club in Canberra.

The scheme apparently originated in the United States of America and uses a brochure as its main promotional tool. If any honourable members are interested in seeing a copy of the brochure I will be happy to provide them with one. The claims made in the brochure are both untrue and misleading. The only person likely to make any money from the scheme is Mr Freeman. When interviewed by officers from my department, Mr Freeman admitted that he could not substantiate the claims made in the brochure. Mr Freeman said that he has ceased operating the scheme. Despite his making that statement to my departmental officers, further generations of participants have been recruited, and officers of the Department of Consumer Affairs understand that Mr Freeman is continuing to operate the scheme overseas.

The Commonwealth Club represents itself as a means by which small businesses can increase their incomes. The concept appears to be based vaguely on the idea of a centrally controlled list of members, all of whom are waiting to buy a member's product when he joins. The promotional literature for the scheme is such that its workings may be too complicated to be understood by the average person. The brochure promoting the Commonwealth Club published by Mr Freeman suggests that recruits to the scheme can earn up to $200,000 for an initial investment of $30. Inquiries reveal that earnings of this magnitude are impossible. I shall act in whatever way is necessary and use whatever means are available to me effectively to stop schemes of this type, and in particular this scheme. Such schemes affect people who can least afford the experience of being involved in them, yet many are the prey of persons such as Mr Freeman. I ask anyone who is approached to join a scheme such as the Commonwealth Club to contact the nearest office of my department. Because the scheme reaches interstate and overseas, the director of my department already has been in touch with the Trade Practices Commission, which has started its own inquiries.

COMMERCIAL COOKING COURSES

Mr SINGLETON: I address my question to the Minister for Education. Is the Minister aware that some commercial cooking students from the North Coast of New South Wales have to travel to Goulburn to undertake an apprenticeship in that trade? Have those students now lost their accommodation in Goulburn? Do other students have to travel to Newcastle and Brisbane for similar courses? Will the Minister, as a matter of urgency, establish a commercial cooking course at a technical

college on the North Coast, thus opening up a large number of apprenticeships in that region and greatly reduce travel and accommodation problems for students from that area?

Mr CAVALIER: The Department of Technical and Further Education is spending a considerable amount of its resources, in terms of capital, equipment and staffing, to offer cooking courses in the immediate area of Sydney, its suburbs, the perimeter areas and throughout the country. Commercial cooking and related courses in food preparation, dietary procedures, and catering methods are provided in many parts of the State. I am not aware of the specific matters to which the honourable member refers, but I shall certainly refer them to the Director-General of the Department of Technical and Further Education. As soon as it is possible I shall advise the honourable member and the House of the possibility of bringing about what he seeks.

THEATRICAL AGENCIES

Mr BOWMAN: I ask the Minister for Industrial Relations whether he has been approached by theatrical agents, as well as the actors and musicians unions, about malpractice and instability in the theatrical agencies industry in New South Wales. If this is so, will the Minister explain to me and the House what measures he is taking to help bring about stability in this important part of the entertainment industry?

Mr HILLS: There are about 230 theatrical agents' licences in force in New South Wales. Because of the large club industry in this State there has been a substantial increase in the number of licences issued and the number of people seeking licences. As the honourable member for Swansea suggests in his question, there have been numerous complaints from performers, and members of the Musicians Union of Australia and other organizations including Actors Equity. These organizations have been set up for the purpose of protecting their members from malpractices that have been going on in this industry for a long time. Nevertheless these malpractices have increased substantially. Some performers have not been paid. In one case a person was gaoled because of problems associated with the way that an agent dealt with people who were under his care.

The licensing provisions regulating agents come under the jurisdiction of the Department of Industrial Relations. Because of the number of complaints made to me I decided to invite members of every facet of the industry to become involved in an advisory committee, representing the whole of the entertainment industry, to advise me what action should be taken under the existing legislation and what might be done by the department to overcome the malpractices complained of. Representatives of all sections of the entertainment industry, including Actors and Announcers Equity Association of Australian, the Musicians Union of Australia, the drama agents, the Australian Theatrical and Amusement Employees Association, and film producers were invited to be involved in the committee. The industry through its various organizations has given complete co-operation in the submissions that have been made to the committee. I hope that in the next session of the Parliament I shall be able to introduce measures that will tighten up control of malpractices.

Because the licensed club industry in New South Wales is so large and provides entertainment in addition to normal theatre venues and entertainment centres such as that in the Haymarket, it is the focal point of the whole of the entertainment industry in Australia. Any legislation concerning that, introduced in New South Wales, will be examined carefully by other legislators throughout the Commonwealth of Australia. I thank the organizations that have been involved with the committee. Incidentally,

that committee is headed by the under secretary of the Department of Industrial Relations, Mr Riordan. That department is responsible for the issuing of the licences. I was pleased to accept the first recommendation of that committee which was that during the currency of the committee hearings no further licences should be issued. I was pleased to do that to ensure there would not be any other fly-by-nights coming into this important industry. I thank the honourable member for Swansea for his question. I am sure that those who are involved in the entertainment industry will be grateful for his interest and that shown by various representative organizations.

EGG MARKETING

Adjournment (S.O. 49)

Mr SPEAKER: Order! I have received from the honourable member for Tamworth notice under Standing Order 49 of his desire to move the adjournment of the House to discuss a specific matter of recent occurrence and of sufficient public importance to warrant urgent consideration, namely, the threat to the orderly marketing of eggs in New South Wales.

Mr PARK (Tamworth) [3.12]: I move:

That this House do now adjourn.

The motion being supported by five other members.

Mr PARK: The orderly marketing system that governs the production, handling and marketing of eggs in this State is under threat. During the past week or so considerable pressure has been brought to bear on the Egg Corporation by the media, the press, all five metropolitan television stations, the radio, the Royal Society for the Prevention of Cruelty to Animals, and the public. The Egg Corporation is facing considerable pressure in carrying out its job to uphold the laws of the State. About five rebels, who are breaking the law and have been doing so for some considerable time, are frustrating the system for orderly marketing of eggs and adding to over-production. This is costly for the industry. The Opposition is firm in its resolve to support the New South Wales Egg Corporation and its licensing committee. Further, the Opposition supports the corporation in its efforts to compel the rebels to comply with the law. If the corporation backs off, or if the rebels win, the result will be overproduction and, eventually, the system will break down. The corporation would be unable to supply quality eggs at a reasonable price to all the egg sales outlets in New South Wales. For a long time in the past, and at present, New South Wales has had the cheapest average price for eggs in Australia.

Without doubt, everyone is upset about what has happened in the last few days, about the confrontation that occurred between rebels and the corporation's representatives, and everyone is most concerned about the cruelty to the birds and the damage that has been occasioned to property. The Opposition is concerned that further possible confrontation may lead to someone's injury or perhaps even death. The egg industry brings a return of at least $100 million to those directly involved with it. Eggs are a staple food. The marketing of eggs is at risk. In other States similar systems work quite well because, for a long time, the Governments of those States have supported their marketing authority and the system. I ask the question, will the New South Wales Government support the New South Wales Egg Corporation, or not?

Last night I attended a meeting at Kootingal where most of Tamworth's 110 egg farmers were present. The chairman of the licensing committee, Mr Robin Claxton, was the guest speaker. He outlined what had happened last week, and also at other recent times. The meeting carried a unanimous resolution that fully supported the corporation and the licensing committee. A relevant message was conveyed to the Minister for Agriculture.

The Egg Industry Stabilisation Act came into effect on 1st December, 1974. The present Government amended that Act in March 1978. On 6th March, 1978, the Egg Marketing Board had taken action that resulted in the gaoling of four rebels. Later that same day following instructions from the Premier, those four rebels were released from gaol. Amendments to the Act, brought in later that month, virtually removed the criminal or penal provisions and put the issue into the civil code. In May 1980 following the appointment of Mr Paul Gilchrist an inquiry was held into the egg industry in New South Wales. Mr Gilchrist compiled a report that was completed in November 1981 and was released to the representatives of the egg industry early in 1982. That report is known as the Gilchrist report. It was from that report, and following numerous discussions with representatives of the egg industry, that the 1983 bill was drawn and presented to Parliament in March of that year. I emphasize that one of the problems the industry had to face, one that had to be considered by Mr Gilchrist also, was the ability of egg producers to market eggs all the year, both in winter and in summer. Under the present system that happens. The bill that was introduced in March 1983 and which became effective on 1st July, 1983, is not perfect but is not all that bad either. The industry was, and still is, reasonably happy with that compromise bill.

I shall deal with the so-called rebels. There is Dr Galea, who is in partnership with his brother Paul at Preston. They have approximately 48 000 birds at present. They have no licence and no quota. Then there is Dr Galea's sister, Mrs Mary Cassar, who has a farm at Leppington and runs about 4 000 birds. She also has no licence and no quota. Mr Albert Perrish has a farm at Leppington. He has a quota of 7 785 hens but I understand at present he is running about 10 800; so he has a licence but he is running over-quota hens. Mr Greg Jones, who was in the news last week, still has about 8 000 birds. He has no quota or licence. Mr Jones has usually, over recent months, been running up to 30 000 hens. He has four farms; one at Blacktown, two at Kellyville and one at Rouse Hill.

On 7th May—last week—the licensing committee confiscated 5 000 birds from Mr Jones' Blacktown farm. I understand those 5 000 hens were processed at Tamworth. On Tuesday 8th May the committee confiscated a further 8 000 hens from one of Mr Jones' Kellyville farms. On Wednesday 9th May 8 000 hens were confiscated from the other Kellyville farm, making a total of about 21 000 birds. On Thursday 10th May the committee endeavoured to confiscate the birds at the Rouse Hill farm, but was not able to proceed as the farm sheds were flooded, and upwards of 8 000 hens remain there. So there are about five producers in the rebel group. The hens that were confiscated last week, apart from those that were processed at Tamworth, were processed at Pendle Hill. I shall deal in a more detailed way with Mr Jones.

He started poultry farming in May 1978. At that time he acquired a quota from another farmer. He operated that way, within the law, until about March 1981. He then started keeping over-quota hens. He probably thought that as one or two others were doing it he could do the same. In July 1981 he disposed of the licence and quota. He sold the quota that he owned and returned the quota that he had on lease. Any farmer who has not the capital to buy a quota of hens can lease from the corporation, at a much lower capital cost. After that Mr Jones proceeded to run all his hens with no licence and no quota. This he did by using two companies he owns.

After the new corporation came into being on 1st July last year, the licensing committee, on 22nd August 1983, seized 4 480 hens and 1 160 dozen eggs. I point out that Mr Jones has 58 convictions obtained by the old Egg Marketing Board which operated before 1st July last year and he currently owes about $85,702. I understand the total amount is outstanding, but some of the fines are still subject to appeal.

The Egg Marketing Board—formerly the authority—carried out other prosecutions over the years. When the corporation took over on 1st July last year it first tried hard to negotiate with the rebels and gave them the chance to take action to come within the law. When that did not work, the corporation realized that it had to take stiff action, as provided for in the Act. In taking that sort of action the corporation has faced all kinds of problems with the legal representatives and legal counsel for the poultry farmers, and its efforts to control the overproduction and breaking of the law have been frustrated all the way along the line. Last week barricades were constructed of tyres, covered with petrol and set alight. Over the weekend the broiler processing plant at Pendle Hill was damaged and three trucks were set on fire. I understand that considerable damage was done to the plant itself. It seems to have been the work of a maniac. Perhaps it was retaliation, for the trucks were those that were used to confiscate the fowls during the week. An article in today's *Daily Telegraph,* under the heading "Egg Rebels: It's War" by Norm Lipson reads:

> Rebel farmers prepared yesterday for a showdown with the Egg Corporation in the egg war.
>
> The farmers vowed they would physically stop corporation inspectors or police confiscating their hens.
>
> And the simmering anger in the industry erupted early yesterday when 2 000 chickens were burnt alive by an unknown firebomber in three semi-trailers used by the corporation in its fight with rebel farmers.
>
> The rebels denied any knowledge of the act as they prepared to fight the Egg Corporation for their livelihoods.
>
> One rebel, Mr Paul Galea, has laid a "minefield" of obstacles, including walls of coal, tyres and drums of petrol.
>
> "If it's war they want, it's war they've got," he said.

Recently he was reported as saying, "I'll die before I let them take my chickens". The rebels have denied any knowledge of the act of the burning of the trucks and the damaging of the plant, but they reiterated that they were prepared to fight the Egg Corporation for their livelihoods, as they see it. The RSPCA has been involved. Its president, Mr Colin McCaskill, described the actions as disgusting and repulsive. The dispute is about an Act that was introduced after the submission of a report which took eighteen months to produce. A year was allowed to consider the report and to discuss it with the industry. A great deal of thought was put into the bill that was introduced. If any bill was ever going to be effective, that one should have been.

Mr McGowan: It is good socialist legislation.

Mr PARK: I do not believe it is all that bad, though it is not perfect. I am not condemning the bill. I am supporting the corporation. The Act is the instrument upon which the corporation acts at present.

Mr McGowan: Are you opposed to it? Do you not agree with it?

Mr SPEAKER: Order!

Mr PARK: An article in the *Australian Financial Review* of 14th May by Ann Flahvin, states:

> The turmoil afflicting NSW's egg and milk industries—christened the Egg Flip by State Government staffers trying to resolve it—is threatening to destroy the quota system on which both industries are based.

I also quote from the *Sydney Morning Herald* of Friday, 11th May. It is entitled "Wran: poultry raids were a bit heavy-handed", and states:

> The Premier, Mr Wran, is to order a review of the laws which allowed the NSW Egg Corporation to use a large contingent of police in four raids this week on illegal poultry farmers.

Mr Wran went on to say:

> It all looks a bit heavy handed to me. I will certainly be seeking some review of the law, not to encourage people to break the law, but to find some other way of dealing with lawbreakers other than having the spectacle of police wrestling with them.

That is up to Mr Wran and his Government. It is the legislation under which the Egg Corporation has to operate. It was brought in after a good deal of thought and discussion. I do not condemn it. The Opposition supports the corporation in its efforts to solve the problem. The licensing and quota systems in the egg industry in New South Wales were introduced in 1972. At that time there were 1 856 producers. That figure has now dropped to 550. In 1983–84 the 550 producers are estimated to produce 83½ million dozen eggs. Eggs and egg products produced and sold locally represent 69 million dozen, leaving a surplus of 14½ million dozen or 17 per cent of production. The surplus eggs manufactured into egg powder or pulp, with some eggs in the shell going to Hong Kong, have to be sold at a loss of somewhere between 30c to 35c a dozen. The aim of the corporation is to reduce the surplus to about 3 or 4 per cent. At the present time the total quota in New South Wales is 4.264 million hens. Because there was a cut of 10 per cent on 1st November, 1983, farmers are permitted to keep 3.83 million hens. On 1st July that will be reduced a further 10 per cent. The Opposition supports the orderly marketing system, the corporation and the licensing committee. Again I ask the question, is the Government willing to support the corporation in its efforts to apply the Government's own laws?

My electorate of Tamworth has approximately 110 farmers. They have a total quota of 1.2 million hens which, less the 10 per cent cut, have about 30 per cent of the total industry quota in New South Wales. Some 50 per cent of the industry is in the metropolitan area, mostly in the southern districts, and the other 20 per cent of the industry is located generally round Newcastle and at Young. The corporation, which was established on 1st July last year, has as its chairman Mr Ken Baxter who is doing his best to make the system work. The part-time chairman is Mr John David. The four producer members are Mr Mark Moncrieff, Mr Bob Hazlett, Mrs Muriel Barber from my area, and Mr John Iori. There is also a consumer representative, Mrs Francis Buckeridge, making seven members. The Act which came into effect last year has seizure provisions that are spelled out more clearly than they were in the former Act. The present Act is a little more flexible and it allows the corporation to work on a better footing. It is a better piece of legislation than the previous legislation.

It is interesting to look at the egg industry in terms of the numbers of hens in various categories. Some 195 farmers out of 550 have a thousand or less hens; and 185 farmers have between 1 000 and 5 000. A farm is not viable until numbers are somewhat greater than 5 000 hens. Certainly farms of 3 000 to 5 000 hens, there being 107 in this category, would be marginal. Seventy-nine farms have between

5 000 and 10 000 hens; 81 farms have between 10 000 and 50 000 hens; 8 farms have up to 100 000 hens; 2 farms have over 100 000 hens. So although the State has 550 producers, some of them obviously have other forms of income and their egg operation could be regarded as part-time or a sideline. The total industry in this State in terms of those directly involved in it is worth $100 million a year, at least. We are talking about the ability of the elected and appointed authority, the New South Wales Egg Corporation, to be able to market quality eggs—a staple food diet—at a reasonable price to every outlet right across the State. Their efforts are being frustrated by the actions of a handful of rebels. I know there are legal problems, there are frustrations, but it is absolutely imperative for the corporation to continue to eliminate the rebels if the marketing system is to survive. Once that is done, a few minor problems in the industry can be cleaned up and within the space of a few months the industry could be put on a first-class footing without the overproduction problems it has had in the past.

At times representatives of countries like Canada have come to Australia and to New South Wales to study the marketing system of our egg industry. This system is regarded as one of the best in the world. Now Canada has introduced a similar scheme, which is working well. I reiterate that the Opposition supports the corporation, the licensing system, and the licensing committee. The Government should do likewise. At all costs it should support the corporation in its endeavours, if necessary by amending the Act.

Mr AKISTER (Monaro), Minister for Corrective Services [3.40]: I thank the honourable member for Tamworth for raising this matter and for giving the Government the opportunity of stating its case for the support of orderly marketing. Word is around the House that the National Party in the coalition strongly supports this measure, but one wonders whether the alacrity with which members of the Liberal Party left the House when this matter was called on for debate was an indication of their support for orderly marketing of eggs in New South Wales. [*Quorum formed.*] The only threat to the marketing of eggs in this State is from maverick producers who refuse to abide by the wishes of the majority of egg producers. I assume that the Opposition has taken up some of the recent editorialising which has claimed that the industry as it exists is undemocratic. Surely the most democratic way to run any industry is as per the wishes of the majority of producers. In this case, some 535 of 540 egg producers in the State support orderly marketing by way of the Egg Corporation of New South Wales. Some five farmers only wish to go their separate ways. The New South Wales Egg Corporation was established on 1st July, 1983, under the Egg Industry Act, 1983. The objectives of establishing the corporation were the very issues the House is debating today—that is, to improve the efficiency of egg marketing in New South Wales; to reduce the serious surplus of eggs; to reduce the price of hen quotas; to introduce more competition into egg marketing; to maximize producers' returns without compromising egg sales; and to deal with the problems of evasion.

Since its inception, the corporation has introduced a number of initiatives to achieve its objectives. These include the reduction in the price of eggs by 10c a dozen, except for 50-gramme eggs; the introduction of a new generic egg pack into the market; the introduction of improved one-dozen egg cartons into the market; and the adoption of measures in conjunction with the poultry farmer licensing committee to reduce the price of hen quotas from $16.50 to $18.50 a bird, to $11.50 to $14.00 a bird. Further, it has introduced a system of levying industry charges on a quota hen basis instead of a per dozen basis, in accordance with the wishes of the egg division of the Livestock and Grain Producers Association, and many other measures. Objectives of the corporation and the action it has taken so far have had the strong support of the Opposition coalition, the Livestock and Grain Producers Association, and some 535

of the 540 egg producers in the State. In addition, the Opposition, the Livestock and Grain Producers Association, and those same 535 egg producers have demanded action against the rebel egg producers.

A great number of these producers demonstrated noisily during the recent State election campaign, calling for action to be taken against the so-called rebel producers operating outside the system. In February last those rebel producers combined to market their product in their own cartons as independent farm eggs. This decision was greeted by generally favourable news media response because the rebels claimed their eggs were on sale to consumers at 40c a dozen cheaper than those marketed through the New South Wales Egg Corporation. In fact, those eggs were on sale for average discounts of only 5c to 10c and my colleague the Minister for Agriculture stated that this was nothing more than an exercise in deception for financial gain. Furthermore, the eggs of one of the so-called rebel producers, Dr Albert Galea, were selling at one Sydney store for 5c more than the equivalent price for the Sunrise eggs sold by the Egg Corporation.

One must surely ask where the margin of profit is going. Is the storekeeper upping his margin on the sale of eggs from 11c to 54c a dozen? Or is it a fact that the so-called rebel egg producers are dodging all the statutory obligations imposed to finance the orderly marketing of eggs? Dr Galea says that some 33c would be saved in bypassing the Egg Corporation. Since Dr Galea sells his eggs independently of the corporation, one wonders where the 33c goes. There is little doubt it goes not to consumers, but into the pockets of rebel producers. The so-called rebel producers are putting pressure on an industry built up over many years which has proved to be highly cost efficient. The Egg Corporation since it was established has introduced significant reforms. It has reduced the price of eggs and has operated on a strictly commercial basis in line with market influences throughout the community. The irresponsibility of the news media in showing support for the actions of the rebel egg producers should be condemned. It is essential that New South Wales should have an efficient distributive system.

In recent days, we have had before us the example of Mr Jones who has been portrayed by the media as some kind of martyr to the Egg Corporation. In fact, the truth about Mr Jones is that he sold his quota of 17 000 birds in 1981, thus officially leaving the industry. He pocketed the proceeds of that sale and then immediately re-entered the industry as an illegal producer with an estimated 28 000 birds. In taking this action, he perpetrated a fraud on the persons to whom he sold his quota, and thus was able to compete unfairly with all other law-abiding egg producers by having no loans for bird quota to repay, not having to contribute to price equalization arrangements shared by all producers, and by adding to the huge 14 million dozen surplus production in New South Wales that makes these equalization charges necessary. Mr Jones has already been taken to court over his activities and currently has $81,000 in fines and costs outstanding against him from over forty convictions. In 1982, Mr Justice Helsham in the Equity Division of the New South Wales Supreme Court gave judgment against Jones, observing that his actions were costing the industry some $326,960 annually.

In August 1983 5 000 of his birds were seized under the new Act in an attempt to convince Mr Jones to enter the marketing scheme. He would not do so and in fact has frequently said he will continue to break the law. Mr Jones has had a long record of violence and threats against Egg Corporation inspectors and members of the Police Department trying to uphold the law. That law is one which is supported by some 545 or 99 per cent of egg producers in this State. Mr Justice Helsham has described Jones and his associates as being involved in "an elaborate masquerade that

has been performed by or for the defendants to try and enable evasion of the provisions of the Egg Industry Stabilisation Act." In the past, negotiations have taken place with the so-called rebel producers, but the rebels have not been prepared to compromise. Their basic proposition is that they wish to be given very substantial amounts of quota at no cost and with no conditions attached. In other words, the rebels have refused to compromise, despite the efforts of the New South Wales Egg Corporation to negotiate. I have already stated that legal action has proceeded against Mr Jones, and indeed every effort has ben made and will continue to be made on behalf of the producers and the consumers in the State of New South Wales to uphold the laws of the State of New South Wales.

Already New South Wales consumers benefit from the fact that most grades of eggs in this State are the cheapest in Australia. Also, they are of extremely high quality, something that cannot be said of the eggs produced by Mr Jones. Inspections revealed that he sold second quality eggs that the corporation would reject. The small number of rebels involved in disrupting the orderly marketing of eggs in this State have been a long-term problem, which I might say the former coalition Government did little to overcome. It is a fact that over a period of ten years legal action has been taken against members of what was then called the defence committee, which is basically a predecessor of the independent egg group. The majority of producers condemn the actions of the rebels and support the law and demand that it be upheld. Though both the Premier and the Minister for Agriculture have expressed some disquiet over the scenes graphically displayed on television, the public should not be fooled by news media reports, which run with an issue simply because it provides good television footage. The media, with few exceptions, portrayed the events of last week as a little battler fighting against the overwhelming force of a powerful bureaucracy. That is ridiculous. As I have pointed out, Mr Jones' record clearly indicates that self-interest is the sole motivation for his actions; self-interest it should be stressed to the extreme disadvantage of his fellow egg producers. Let there be no mistake, and my comments are directed as much to Mr Jones, the news media, and the general public as they are to members of this House: if the rebel producers are successful in undermining the commitment of the overwhelming majority of egg producers in the State to the orderly marketing system, it will collapse.

On 4th July all egg producers in the State are expected to reduce their flocks by a further 10 per cent to bring the current enormous surplus under some manageable control. If legitimate producers continue with their threat not to implement that cut, or even go so far as to refuse to pay corporation levies, Mr Jones and Dr Galea will have won the day, because the system will collapse and with it the livelihood and investment of several hundred honest hardworking people. The news media should be well aware that when it makes sweeping generalizations about deregulating this industry, it is not something that will happen with a single stroke of the pen without consequences. Several hundred producers in New South Wales have paid up to $15 a bird for hen quota, in some cases at excessively high rates of interest, and if the system collapses, as so many critics wish it to, then overnight that investment will become worthless. Yet the people concerned will still be required to meet their interest payment commitments.

This is not a simple case of the battler against the bureaucracy, nor free marketing against a restrictive form of production control, but a delicate situation that concerns the survival of a significant group of people in this community and the continuation of the cheapest and most reliable supply of eggs to New South Wales consumers. That is where the matter lies. This industry can survive only if the news media and the general public understand what the price in human suffering will be if they play along with Jones and Galea to precipitate a collapse. On the part of the producers, if they do not accept those flock reductions in July, then the collapse of orderly marketing

that they fear will be brought down on top of them. The events of last week demonstrated clearly that there is an absolute limit to how far governments can go in upholding orderly marketing systems. Ultimately their success depends upon the willingness of the participants to comply with that system.

Mr PARK (Tamworth) [3.55], in reply: The Minister for Corrective Services has spoken about orderly marketing. The Premier has much to answer for in respect of the events of the past week or so. On 6th March, 1978, the former Egg Marketing Board in its endeavours to carry out its role under the then Egg Industry Stabilisation Act, successfully prosecuted four rebels, who were gaoled. For reasons best known to him, the Premier intervened. Following his instructions, later the same day the four rebels were released from gaol. The Egg Industry Stabilisation Act, which applied until that time, was written in the criminal code; in other words, defaulters could be gaoled. Apparently the Premier disagreed with that provision. Later in the same month the Egg Industry Stabilisation Act was amended, taking it into a civil code, which meant that defaulters could be fined only.

Mr McGowan: Did not the honourable member for Tamworth agree with that?

Mr PARK: That is all right. At present Mr Jones, to whom I have referred at some length, has outstanding fines amounting to $85,702. The corporation is finding it difficult to recover that money. It has had to resort to seizing hens and eggs. The corporation may have to seize other property also. This results from the fact that Mr Jones has been operating outside the provisions of the law. The other 545 egg farmers have been complying with the law and these five rebels have been breaking it. As I said earlier, at present the overproduction in the egg industry is about 17 per cent. That is a major problem that must be faced by the New South Wales Egg Corporation. The five rebel farmers have been contributing to that overproduction. An important principle is involved. If those five rebel farmers are permitted to get away with what they have been doing, why should other law-abiding farmers be penalized because of the illegal activities of those rebels? The principle behind that issue must be borne in mind.

The corporation's aim is to reduce overproduction to about 3 per cent or 4 per cent. As I said earlier, on 1st November last year a 10 per cent cut was effected; on 1st July another cut will be announced. That positive action is being taken by the corporation with the approval of the industry to reduce the number of hens that may legally be run in New South Wales and thereby reduce the overproduction of eggs. In the past few years, because farmers have been faced with cuts in quotas and the like, they have taken steps to bring more efficiency to the industry. They have invested more money, bought new plant, and adopted better methods that perhaps cost money, but as a result they have been able to produce more eggs a year from each hen than before. The Minister has described some of the moves taken by the corporation and spoke about the efficiency of the industry. I agree that the egg industry is most efficient. Much money is invested in it. As the Minister said, farmers are paying up to $15 a head for a hen quota. I believe that is a little high. I do not know how we should go about reducing it, but I should like to see the price down to about half that amount. It is a false value and places a lot of pressure on some farmers, particularly those just starting out. If egg farmers are required to borrow money, the interest payments are high.

I emphasize that the corporation must now proceed to finish the job. With all the problems that the corporation encountered last week, I believe that if it backed off from this matter it would not be able to get going again. The news media have been heavily involved. If the marketing system that I have spoken about breaks down, the result will be dearer eggs for consumers and a few large corporations controlling this great industry. The Minister has agreed that there is a danger that orderly

marketing will collapse and that a lot of people now employed or involved in the industry will be hurt. I have raised this matter under Standing Order 49 because I believe the Government of this State must move quickly to resolve this problem and, bearing in mind the principle involved, support the corporation in concluding this matter.

Motion, by leave, withdrawn.

CRIMES (AMENDMENT) BILL

Suspension of Standing Orders

Mr SHEAHAN (Burrinjuck), Minister for Planning and Environment [4.3]: By leave, I move:

> That so much of the standing orders and other orders be suspended as would preclude the consideration forthwith of the Crimes (Amendment) Bill and the bill being passed through all remaining stages in one day.

Question put.

The House divided.

[*In Division*]

Mr SPEAKER: Order! For the purpose of this division and subsequent divisions during the passage of this bill, honourable members on the front bench rear of the centre door marked "Library" will be considered to be voting with the majority.

Ayes, 70

Mr Akister	Mr Face	Mr J. H. Murray
Mr Amery	Mr Fahey	Mr Neilly
Mr Anderson	Mr Ferguson	Mr Paciullo
Mr Aquilina	Mrs Foot	Mr Page
Mr Baird	Mr Gabb	Mr Petersen
Mr Bannon	Mr Greiner	Mr Phillips
Mr Beckroge	Mr Hay	Mr Price
Mr Bedford	Mr Hills	Mr Quinn
Mr J. D. Booth	Mr Hunter	Dr Refshauge
Mr K. G. Booth	Mr Irwin	Mr Rogan
Mr Bowman	Mr Keane	Mr Sheahan
Mr Brereton	Mr Knight	Mr Smiles
Mr Carr	Mr Knott	Mr Stewart
Mr Cavalier	Mr Knowles	Mr Walker
Mr Christie	Mr Landa	Mr Walsh
Mr Cleary	Mr Langton	Mr Whelan
Mr R. J. Clough	Mr McCarthy	Mr Wilde
Mr Collins	Mr McGowan	Mr Wran
Mr Cox	Mr McIlwaine	Mr Yabsley
Mr Crawford	Mr Mack	Mr Yeomans
Mrs Crosio	Mr Mair	
Mr Davoren	Mr Mochalski	*Tellers,*
Mr Debus	Mr H. F. Moore	Mr T. J. Moore
Mr Dowd	Mr Mulock	Mr Wade

Noes, 23

Mr Armstrong	Mr Kerr	Mr Singleton
Mr Beck	Mr W. T. J. Murray	Mr Webster
Mr Causley	Mr Park	Mr West
Mr J. A. Clough	Mr Peacocke	Mr Wotton
Mr Cruickshank	Mr Pickard	Mr Zammit
Mr Duncan	Mr Punch	*Tellers,*
Mr Fisher	Mr Rozzoli	Mr Caterson
Mr Jeffery	Mr Schipp	Mr Fischer

Question so resolved in the affirmative.

Motion for suspension of standing orders and other orders agreed to.

Second Reading

Debate resumed (from 10th May, *vide* page 576) on motion by Mr Wran:

That this bill be now read a second time.

Mr GREINER (Ku-ring-gai), Leader of the Opposition [4.13]: At the outset of my remarks on what is obviously an emotional and highly divisive issue for members of this House I express the hope, which I am sure will be echoed by all parties and all honourable members, that the debate we are about to undertake will be conducted with a maximum of tolerance and reason on all sides. As deeply as we may disagree with each other on these measures, we must surely respect each individual's right to his or her own conscientious views. Contrary to some media suggestion, my attitude to the matter before the House has been unchanged throughout my parliamentary career. I have always supported the principle that sexual activity in private between consenting adults should not be the subject of criminal sanction. Therefore I support the bill. I do so being fully aware of the extremes of feeling generated on both sides on this issue and in the knowledge that the position taken in this bill satisfies neither of these extremes.

I do not rise to address the House on the subject of homosexuality. This is not for me primarily, as it was for the Premier, "a small step towards homosexual law reform". Nor do I rise to speak, as some honourable members will today, about the moral standards of our society. The law, in my view, should not be out on castors, to be wheeled about for use by competing moralities. I do not support this bill, as the Premier did in introducing it, simply to bring the laws of this State closer in line with what I perceive to be contemporary social circumstances. As I see it, the rightness or wrongness of this proposed change in the law is timeless. The proscription on homosexual acts between consenting adults in private is, in my view, a bad law today, just as it was a bad law twenty or thirty years ago. I support the bill because it reflects what I consider to be the proper role of Government in a liberal-democratic society. I am aware that other members of this House intend to vote for the bill for reasons other than this. But, looked at on its own—as I believe the proposed legislation deserves to be—this change in the law will represent a classic liberal position. One of the most concise and influential expositions of liberalism was written in the middle of the last century by an Englishman soon to become a member of the Westminster Parliament, J. S. Mill. In his introduction to *On Liberty,* Mill eloquently put the classic liberal view on the coercive powers of the State:

> The only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.

It is not good enough, Mill wrote, that we should want another individual to do good, or that we should want to make him happy. It is not good enough that we consider our course of action to be wise or right. Mill said:

> These are good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreating him, but not for compelling him, or visiting him with any evil in case he do otherwise.

Such are my views on this legislation before the House today. Those who are opposed to homosexuality may have cause for remonstration. They may have justification for reasoning with those they know to be homosexual. But, however wise or right they believe themselves to be, they are not justified in a liberal–democratic society in compelling homosexuals to conform, whether privately or through the powers of the criminal law. Lest I be misunderstood, let me say that I am fully aware, as I believe Mill was, of the difficulties in drawing precise boundaries to this appealingly simple statement of philosophy. The dividing line between self-regarding and other-regarding acts has never been plain, a fact which, in my opinion, does not detract from the usefulness of the distinction.

The boundary questions of liberalism—what are the acceptable limits of harm? what amounts to real consent? and so on—are obviously complex. There is ample room within these border regions for intelligent men with equal claim to the title liberal to disagree. That is the reason why the Liberal Party has permitted a conscience vote on this issue, and it is the reason why members of my party with equally strong liberal credentials will sit on opposite sides of this Chamber when the vote on this bill is taken. For myself, the object of this bill is clear—to legalize certain sexual acts between consenting adults in private. It would be difficult to find a piece of legislation that is closer to being purely self-regarding than this. In general terms, of course, the bill does draw Mill's line at preventing harm to others. There is no intention here to legalize acts of violence. Sections 61A to 61G, the provisions of the Crimes Act relating to sexual violence against males and females, will remain unchanged by this bill.

And yet the proposed law, for all the efforts of its framers, may not be entirely self-regarding. It is argued by some, for example, that legalizing homosexual acts in private will increase the risk of sexual violence generally. Risk is obviously a difficult problem for liberals, partly because we lack the ability to quantify it properly, and partly because there is probably no human act—not even silent contemplation—that does not impose some additional risk upon our neighbours. But if liberalism is to mean anything, the risks requiring government regulation must be real. In the present case, it seems to me highly unlikely that the people of New South Wales will misinterpret the object of this bill as giving official approval to, or even tolerance of, sexual violence. For me, the risk of increased violence is so minute that it does not constitute harm deserving of government attention or intervention. But the bill perhaps affects others in other respects. If enacted into law, this proposed legislation will have the effect of legalizing soliciting in public by homosexuals. This is achieved by the repeal of section 81B of the Crimes Act, with no replacement provision. If section 81B were the only protection against offensive propositions in the street, one might have reason to oppose this aspect of the proposed legislation. But the very flexible provisions of the Offences in Public Places Act still apply, and I have little doubt that the police retain adequate powers under that Act to control offensive conduct in public.

I indicate at this stage that I propose to support the amendment that has been circulated by the honourable member for Hurstville, which would seek to create a new offence for anyone promoting homosexuality to persons under 18 years of age in certain circumstances. Homosexual acts, even in private, may be considered as other-regarding because they wound the feelings of some especially sensitive individuals

who are highly offended by even the knowledge that homosexuality is legal. But again, in my view if liberalism is to mean anything—indeed, if our society is to function at all—the Government cannot have regard to the fragile sensibilities of such people. I ackowledge that there is room for debate. But, for myself, I can only conclude that this measure comes as close to drawing the line between self-regarding and other-regarding acts as is humanly possible. I believe that it does meet the liberal demand of the prevention of harm to others, and for that reason I give it my support. J. S. Mill mentions another condition, however. He refers to the need for exchanges between individuals to be based on free will, or consent. This is another of those difficult boundary problems, but again, I believe the proposed legislation, as it fits into the existing provisions of the Crimes Act—is fully acceptable in this regard.

Section 66 of the Act, for example, is quite explicit in treating consent obtained by false pretence, false representation or the administration of drugs, as invalid for legal purposes. Sexual intercourse under those conditions is an offence punishable by up to fourteen years in jail, a penalty that, under the law as it now stands, is more severe than that applicable to rape with the threat to inflict bodily harm. The consent of minors has always been of particular concern to the law. The age of consent provisions of the Crimes Act reflect not only the view that children should be protected from premature sexual relations, but also their particular susceptibility to the influence of adults, especially adults in positions of trust such as parents and teachers. The proposed changes in relation to homosexuality take a conservative view of the age of consent—many I know argue that it is too conservative. This is a difficult question, one on which it is hard to form a clear philosophical position.

Ultimately one's decision about the age at which fully informed consent should be legally assumed will be a matter of personal experience and judgment. It is a matter upon which good liberals can and do disagree. Personally, I consider—as I considered on the previous occasion this matter came before this House—the age of 18 to be low enough in homosexual relationships. I am aware of the arguments for equality of treatment between homosexual and heterosexual relationships, or gender neutrality, but the prior question—and the most important question—in dealing with the age of consent is at what age can a truly informed consent be assumed? My experience and my judgment lead me to favour 18 years of age in homosexual relationships. I would oppose any foreshadowed lowering of the age of consent beyond this level. It is not so many years since we were lifting the age of consent for women. Only the Northern Territory, to my knowledge, retains the old age limit of thirteen. Some Australian States have an age of consent of 18, some 17. In New South Wales, of course it is 16.

In commercial dealings in recent years we have been extending the age of consent well into adulthood. The whole basis for the rapid expansion in consumer protection over the past decade, mostly presided over by the present Government, is recognition that in some circumstances even adults cannot be assumed to be fully informed. The link credit provisions of the Credit Bill at present before the House are largely based on these questions of the consumer's consent. The Contracts Review Act of 1980 is also based on that concept. Yet at the same time as we are questioning the ability of adults to give fully informed consent, there is a move within our community to adopt an attitude bordering on recklessness in relation to this most important matter—the question of sexuality. I believe that this is an area where if we as legislators are to err, we should err on the conservative side. The protection in the bill for society in general and for young people in particular, in retaining the offence of bestiality, punishing non-consenting homosexual activity and severe penalties for persons in positions of trust, in my view clearly meet the reasonable concerns of the community and of parents in particular.

I support the bill, because it takes the Government out of the bedroom while preventing the infliction of harm on those who do not consent. I point out that the bill largely formalizes the law as it is now enforced. The overwhelming number of homosexual offences that appear in our courts relate to acts committed in public or with minors. There is no intention in this bill that the law in regard to these offences should change—and that is as it should be. With few exceptions, the people of this State find the notion of bedroom police repugnant. This bill merely changes the law to reflect that fact. I have had put to me forcibly the argument that as the law is not enforced in the cases proposed to be decriminalized, the law should be left as it is, as a means of indicating society's disapproval. The mere fact that no one I have spoken to wants the law enforced in its present form seems to me to be the clearest possible justification for reforming it. The concept of keeping laws that are both unenforceable and unenforced on the statute books simply because it makes some parts of society feel better about the realities of a situation is as unacceptable in areas of personal behaviour as in other areas of the law.

Before concluding I would address one other set of objections to this legislation. There is an argument put that changes to the law of this type have the effect of undermining the common morality upon which our society is built. This is not merely a sectional argument on behalf of a particular morality or religion, but a much more profound point in relation to social cohesiveness and stability in general. It is argued by those who put this point that certain basic standards must be maintained through government edict if necessary, in order to preserve the integrity of our society. Even if it could be shown that homosexuality did challenge our society at such a basic institutional level, even if it could be proven that the very fabric of our society was weakened by their presence, I do not believe that we in a liberal-democratic society should accept the consequences that flow from such a conclusion. I fear that the result of such a conclusion would not only be to not decriminalize private homosexuality, but to actively prosecute homosexuals to reduce their influence. As a liberal, I would have to reject such a course. But as a liberal I also dispute the basis of this social cohesiveness argument. It is surely fundamental to liberalism that what is required to hold society together is not some common morality enforced by the State, but the mutual toleration of different moralities. That is the bottom line—mutual toleration. We do not all have to agree on a common morality. It is not even necessary that we not discriminate against one another. The condition necessary for the smooth operation of a society like ours is toleration, and it is that condition which this bill requires of homosexuals and those who dislike homosexuals. I speak for the bill because it takes the law of New South Wales closer to, and not further away from, the liberal ideal described so well by Mill. I consider it is a change to the law that is long overdue.

Mr LANDA (Peats), Attorney General [4.29]: I support the bill. I congratulate the Premier, as the honourable member for Bass Hill, on bringing in this important measure, which I hope will see the conclusion of what has been a very bitter and divisive issue in this place over many years. I must say that I am disappointed that the Leader of the Opposition, after a number of years in this place experiencing the division and the level of rancour that the debate has engendered, particularly from members of the coalition of which he is a member, now supports the bill not out of any deep personal conviction of the wrongness of the previous legislation or any great sense of abhorrence at the injury that has been done to the people who have been the sufferers and the real victims of the present laws, but only because he feels comfortable that the bill will not disturb the holy grail of true liberalism as he sees it. In this debate in which every member will vote in accordance with his conscience, as all members of this House seem to be empowered to do on this issue——

Mr Schipp: Including the Cabinet?

Mr LANDA: Including the Cabinet.

Mr Schipp: That is not what were are told.

Mr SPEAKER: Order!

Mr LANDA: When people will be voting in accordance with their conscience on this issue, the only sustenance to the conscience of the Leader of the Opposition that brings him to the barrier of support for this bill is that it is in accordance with the true principles of liberalism. I venture to say that Sir Robert Menzies would not be comforted, as the founding father of his party, that this definition of true liberalism has found expression in the eyes of the Leader of the Opposition around this bill. The bill is far more important than that. It is far more important than any question of whether it subscribes to the particular beliefs of our political parties. This issue strikes at the very heart of how we view our society; whether we regard it as a tolerant, informed and enlightened society or whether we are still going to struggle with the primitiveness and the brutality that has been envisaged by those who would seek to maintain the present laws against a most significant section of our community.

I hope this House will not repeat, on its ninth consideration of this issue, the divisions that have rent it on previous occasions. I hope this debate will not echo those of recent times when so many declared themselves against injustice, against discrimination, against prejudice, and then against the bill. This bill offers a real chance for a demonstration by the Parliament of enlightenment and compassion. I venture to say—and the Premier would concede it—it is in its entirety really a modest undertaking. Tom Stoppard, the great contemporary playwright said, in reflection on a similar issue, we are looking for "a small shift in the emphasis of suffering". As a nation we ratified article 26 of the United Nations International Covenant on Civil and Political Rights which guarantees:

> To all persons equal and effective protection against discrimination on any grounds such as race, colour, sex, language, religion, political or other opinion, national or social origin, property or other status.

The pledge we made as a nation we should honour as a State. Honourable members are here today to decide whether homosexuality is to remain a crime; not whether it is a sin, a sickness or distasteful, and not whether it is natural or unnatural. We are here to decide whether homosexuals should, by virtue of the fact they are homosexuals, be arrested, charged, brought before the courts, convicted and imprisoned. This Parliament has neither the power nor the competence to decide whether homosexuality is sinful, nor does it hold a charter to determine by statute what is or what is not in good taste. I can find no authoritative medical opinion prepared to define homosexuality as a disease or a sickness, and even if one existed, it would place no obligation on the law to compound the suffering. For a victimless crime, it has created a great number of victims. Court cases show how homosexuals have been subjected to blackmail, assault and even murder, simply because they are what they are. The 1982 report of the New South Wales Anti-Discrimination Board into Discrimination and Homosexuality documents a series of such cases and concludes:

> While there is no evidence to suggest that homosexuals constitute a threat to society . . . (there is) ample evidence that the social unacceptability of homosexuality offers a very grave threat to the civil liberties and personal safety of homosexuals themselves.

The United Kingdom's Attorney General, the Rt Hon. the Earl of Jowitt, told the House of Lords in 1954 that during his term as Attorney General 95 per cent of the cases of blackmail brought to his attention arose out of homosexuality. To these known and unknown victims must be added the families who share the unjust burden

of an unjust law. Previous bills brought before this House have encountered enormous and intractable difficulties over the question of age limitation. The problem lacks novelty and its various solutions are scattered throughout the statutes. At 15 a student may leave school, but a girl is still protected from carnal knowledge. At 16 carnal knowledge can be legally obtained, but not a driving licence. At 17 one can be licensed to drive, but not to vote or drink on licensed premises. At 18 one can vote, but not gamble. The judges of the Chancery Division told the Latey committee:

> Any legal system must lay down some age at which people who are not mentally defective are free to live their own lives at their own risk; free, for instance to associate with whom they please, to live where they please and, subject to the sanctions of the criminal law, to live how they please.
>
> Whatever age is fixed there will inevitably be numbers of people over the age who many of their fellow citizens will consider to be unfit to enjoy such freedom.
>
> The law must choose the age which accords best with the needs of the great majority.

The judges saw nothing immutable about the chosen age, and added:

> The age which is appropriate to the conditions obtaining at one period, may not be fitted to the conditions obtaining at another.

In other words, age limits are not determined by any particular logic, but by what is acceptable to the majority at any one time. I commend the Premier for his realistic assessment of the age limit that will commend itself to the majority in this place. It can and ought to be varied as conditions change. Passage of the bill will not merely recognize the fact of change; it will, I believe, promote the tolerance and the understanding that are the prerequisites of further change. To those who imagine homosexuality to be a moral sink of the spiritually degraded, I suggest a visit to the Sistine Chapel in Rome and a study of one of the finest works of religious art, painted by the homosexual Michaelangelo. To those who fear we will let loose a wave of deviant behaviour I recommend a visit to Adelaide, where far more liberal laws have in nine years done nothing to disturb the serenity of its citizens. If that does not satisfy them, I recommend that they visit Melbourne where these reforms have in four years left even that city's monumental dignity intact. If homosexuality remains a crime, the full burden of the guilt will fall clearly on us. I not only believe in this reform; I was already sworn to see that it is passed when I accepted a commitment to the elimination of discrimination and exploitation on the grounds of class, race, sex, sexuality, religion, political affiliation, national origin, citizenship, age, disability, regional location or economic or household status. I accepted that gladly, as an individual, and as a member of a great party in whose platform and objectives it is proudly enshrined. I support the bill.

Mr PUNCH (Gloucester), Leader of the National Party [4.39]: I make it clear at the outset that every member of the National Party in the Legislative Assembly and Legislative Council objects most strenuously to this proposed legislation. Despite having the opportunity of a free vote according to their conscience, all members of the National Party in both Houses will show their contempt for the bill by voting against it. The bill is to be condemned. It is unnecessary and it is certainly not urgent.

Despite matters that command the urgent attention of the House, such as high unemployment, the difficulties confronting the egg industry and the dairy industry, and the fact that some thousands of primary producers in this State are under threat of having their properties resumed by the army, the Premier has chosen to give top priority to a private member's bill to liberalize homosexual laws. One might well ask why the Premier sees the need for such urgent reform in the matter of homosexual

affairs. Is he trying to divert attention from other important controversial current issues which are before the public, such as the Jackson inquiry, or the Farquhar inquiry that is to start in a few days? Why is it necessary to put the present bill ahead of all other business of the House? Why the urgency? Why the need for reform?

Is it necessary for the failing Premier to be seen to be doing something, is it necessary for the failing Premier to be seen to be at the head of reform, or is it necessary for the failing Premier to restore his relationship with the Council for Civil Liberties after his embarrassing outburst during which he berated its members at their twenty-first birthday party? What is it that has caused the Premier to undergo his great change of mind in the past year? What is it that happened to the Premier during his recent European holiday which caused him to return to Sydney fired with enthusiasm to liberalize homosexual laws? Last year he said that, because State Parliament had twice rejected private members' bills seeking to decriminalize homosexual relations between consenting adults, he did not believe any relaxation of the laws would be passed. He said he would never agree to a party vote on the issue. It was one, he said, for the conscience of individual members.

Now, the same Premier, has introduced a private member's bill which he says will be passed by hook or by crook and he will deprive the members of their conscience vote, if he has to do so. He should talk about civil liberties and private rights. What a hypocrite, what a great pretender is the cynical reformer. In his second reading speech, the Premier had the audacity to suggest the bill would be criticized because it did not go far enough. Then, having a bit each way, he said it would also be criticized because it went too far, but half a loaf was better than none. What the bill amounts to is an attempt by the Premier to indulge in reform for reform's sake. He desperately needs to be seen to be doing something. But what a pathetic and smutty epitaph this bill will be to this failing Premier. Sullied through a series of inquiries, Royal commissions and constant allegations of Government corruption, he is forced to try to snare the headlines through a reform few people want and most people do not want.

The extraordinary fact is that even the homosexuals in our community do not approve of the Premier's attempt at reform. They reject it as a cheap attempt to obtain political mileage without giving any serious consideration to the subject. That, of course, is fairly typical of the actions of the Premier. Nevertheless, the bill appears to have become the subject of the usual political blackmail associated with Labor Party politics, irrespective of the obnoxious and abhorrent provisions it promotes. I feel contempt, and some sorrow, for those members of this House who do not have the courage and the conviction to stand by their religious and moral standards and vote against the bill. I call on members to give very careful consideration to the effects of this bill and genuinely to exercise their conscience when voting. This House has been called upon on several occasions in the past two years to vote on the decriminalization of homosexual acts and the grounds for opposition have not changed. To those opposed to the abnormal acts indulged in by homosexuals, it is a matter of some disgrace that Sydney now has the dubious and disgraceful reputation of being home for more homosexuals *per capita* than any other city in the world and has one of the biggest homosexual communities in the world. If this is a desirable result of so-called reform, then I prefer to have nothing to do with it.

This bill, as previous attempts at homosexual reform attempted to do, strikes at the very heart of the Christian and moral standards of our society. It seeks to erode further the role of the family unit as the cornerstone of our society. It is a matter for great concern that the Premier of this State should be the one who would introduce a bill which would seek to lower the standards to which our society adheres. One would think a Premier's role would be to uphold those values and standards upon

which society is based and which allow him to be the Premier of a law-abiding and God-fearing community. Unfortunately, the Premier's disrespect for the Christian values held by most of the community is not widely enough known, but nevertheless it is being inflicted upon us now in the form of this outrageous bill. The Premier, by promoting this legislation, is doing his bit in contributing to the breakdown of civilization. History shows us that the collapse of civilization has inevitably followed the breakdown of spritual values, an increase in permissiveness, the breakdown of the family unit, and a growing dependence on the welfare state.

This legislation will succeed in dragging community standards down. It will make it extremely difficult for parents to set good examples and standards for their children when the Parliament of the day openly fosters homosexuality and street soliciting. It must surely be an appalling example to the community that the Premier, who is supposed to be the first citizen of the State, should spearhead the move to legalize these unnatural homosexual acts of sodomy and buggery and to encourage openly the proliferation of homosexual acts. Will it be long before he seeks to push his reform even further to allow marriages between homosexuals and the adoption of children by homosexual partners? Is it beyond imagination to believe that the Premier, the champion of homosexuals, might one day be the celebrant at a homosexual wedding?

Reform has a sorry record under this Government. The repeal of the Summary Offences Act led to degrading public displays of vice which became a sordid feature of Sydney night life and which have caused such concern and alarm in many country towns. The decriminalization of prostitution led to open exhibitions of sex in the streets of Kings Cross and Darlinghurst and an appalling proliferation of child prostitution, male and female. Now, the Premier wants to decriminalize homosexual soliciting and he encourages the open display of homosexuality in our streets. Is this reform —or is it a glib piece of politicking by the Premier in his attempt to wheedle back into favour with the Council for Civil Liberties?

I remind members that this is the third attempt by Labor Party members in the past few years to liberalize laws affecting homosexuals. In the past few years this Parliament has spent more time debating the issue of homosexual legislation than on any other issue, and a great number of very important matters have received scant attention from the Government. There just has to be something wrong when the Premier persists in bulldozing legislation such as this through Parliament as a matter of urgency, when there is no urgency and when there is no pressure for reform. Society's morals and values are under enough attack as it is, without the Premier adding a new dimension with this objectionable piece of legislation. This Government already has a lot to answer for in terms of eroding the sound structure of society and generating permissiveness, disrespect for law and order and the expansion of crime and corruption. This bill does nothing but add to that unpleasant list of achievements by this Labor Government. The National Party objects to the bill as unnecessary and undesirable and will totally oppose it at every stage.

Mr MULOCK (St Marys), Deputy Premier and Minister for Health [4.50]: I am on record as accepting the concept that this bill encapsulates, namely that homosexual acts by consenting male adults in private should be decriminalized. I opposed the three previous bills that were introduced into this Parliament dealing with the same subject matter. I did so because there were objectionable features of those bills which on balance in my view would have been contrary to the public interest. This bill represents a further attempt to bring legislation forward that will be acceptable to this Parliament, to give legislative backing to the concept I spoke of previously. It is certainly not a black and white issue, as some people in the community have sought to pose it. It is an issue that goes deeply to the moral conscience of many people in

our community. When legislation has been introduced I have at all times sought to deal with it on the basis of the responsible position I hold as a legislator. I have done so within the framework of a conscience that I bring not only to this matter but to all matters that are the subject of the responsibility of a legislator.

In accordance with the teaching of the Catholic Church, of which I am a practising member, I indicate at the outset that I view homosexual acts as seriously wrong. That is in keeping with the statement issued last week by the spokesman for the Catholic Archdiocese of Sydney. I believe also the pastoral practice of the church to help homosexuals as much as possible. I believe the church should strengthen its support in this area. This pastoral practice is based on a distinction between homosexual practice and homosexual orientation. In the view of the church, homosexual orientation is morally neutral. The church refuses to countenance homosexual practice, but in the light of this distinction it does all in its power to help homosexuals live a good christian life. That is a christian point of view. However, it is important also, in what is not a black and white issue, to note the further comment in the official statement:

> The Catholic Church does not insist that all morality be enforced by positive law. The role of positive law, in the Catholic tradition or jurisprudence, is to promote the common good, and so it can enforce virtues other than justice, only to the extent that this enforcement contributes to the common good.

Therefore it calls on legislators in such circumstances to ask themselves whether enforcement is actually possible or whether the attempted enforcement would create a worse moral situation than the one existing. A good deal of research is required if one is to come to an objective decision on the matter, whatever one's personal feelings on it. I shall quote from some researched material on the relationship between law and morality. I refer to a book entitled *Morality, Law and Grace* by J. N. D. Anderson, published by Tyndale Press, in 1972. At page 66 it reads:

> There is a clear inter-relation between law and morality, but they are by no means synonomous . . . The demands of morality may be said to be maximal while the requirements of the law must be confined to what is, by comparison, minimal.

At page 68 this appears:

> The law should seek to prevent any exploitation of the young or weak, and to protect the community as a whole from grave offence to the susceptibilities of any substantial number of its members.

Common good and public interest must be relevant because, as I mentioned earlier, law and morality do not coincide. In examining legislation one must ascertain whether the protection of the public interest is affected by other issues. These areas were of concern to me in the previous three bills. I have some concern about the repeal of certain sections that may well lead to the offence of buggery in public places no longer being covered by the legislation. If there is an alternative to that in terms of existing legislation, perhaps the Premier will be able to allay my concern, and the concern felt by others. I return to *Morality Law and Grace*. At page 81 it reads:

> The problem of when the law should intrude in matters which are primarily of moral import can be solved only by attempting to strike a series of balances between competing interests . . . Our basic dilemma is the criterion by which we can decide such a controversial problem as the nature of moral harm.

Mr Mulock]

In dealing with the question of the christian legislator in a pluralistic society, I sought to establish guidelines upon which I could exercise conscience on this matter. I draw attention to *Public Law and Legislation* in a work entitled *Law, Morality and the Bible,* a symposium edited by Inter-varsity Press in 1978. At page 241 that symposium reports:

> What should the christian urge upon his fellow men in a pluralistic society . . . He should advocate legislation that is designed to uphold the status and permanence of the marriage bond as much as is compatible with providing relief where this appears to be really necessary.

On page 242 it says:

> There may always be a further distinction between what the christian believes to be desirable, provided public opinion will support it, and what he will settle for as the maximum that can reasonably be expected.

On page 243, the following appears:

> A wide variety of sexual sins is not subject to criminal sanctions in our society; but such sanctions are still available, at least in theory, to preserve public decency, to protect those who are especially vulnerable, and to penalize those who seek to exploit for financial gain the moral weaknesses of third parties.

At page 244, one of the contributors, William Temple, said:

> You cannot by Act of Parliament make men morally good; but you can by Act of Parliament supply conditions which facilitate the growth of moral goodness and remove conditions which obstruct it.

I believe they are very important principles to be brought forward at a time when legislators consider this bill. I shall refer to what Mr Justice Else-Mitchell said in 1975 in his Boyer lecture entitled *The Webb of Criminal Law.* I read from page 12:

> In my view it is unwise to retain as a crime in the statute book any conduct which the community as a whole does not regard as reprehensible. . . . The acts which our criminal law forbids are those which are regarded by the majority of the community as being morally wrong.

His Honour continued at page 13 to talk about consensual acts between adults, particularly homosexual acts:

> It now seems anomalous that women should be exempted from prosecution, and men should be subject to prosecution for homosexual acts . . . On the other hand, most people believe that the young should be protected from sexual advances to which they may succumb because they are young.

It is obvious in the context of these measures, and has been obvious for some time, that the implementation of the provisions will not result in the beating down of doors and intruding upon the privacy of persons. The law does not operate in that way. However, it does have an effect in the sense that it is available for physical and mental harassment. It does have an effect on the use of blackmail, because such an offence is available. These are matters that ought to be taken into account when one is weighing questions of law against moral considerations. In that context I refer to another book *Liberty, Justice and Morals—Contemporary Value Conflicts,* published by Collier-Macmillan of London in 1973. These are not new concepts; they are

concepts that have been very much to the fore for decades or more, going back in to the 1950's, to the Wolfenden report in Great Britain. At page 19 of that publication Burton M. Leiser, the author, said:

> The scope of morals is far broader than that of law. Nevertheless the two norms—legal and moral—often intercept.

At page 23 the author said:

> Moral standards enter into the law . . . The problem is determining just what the "community's" standards are.

Further on in the book he said:

> The rights of privacy and of freedom of action deserve to be protected and should be interfered with only when private behaviour ceases to be private and becomes a menace to the public or to some part of the public.

It is in the context of that statement that earlier I posed a question to the Premier, because I believe there is a definitive line to be drawn between privacy and acts in private, and public behaviour that could become a menace to the public or to some part of the public. Public displays of homosexual behaviour can be offensive. The law should protect members of the public who wish to use facilities without being assailed by offensive behaviour. In the context of guidance that I seek on the moral approach, I refer to the Roman Catholic advisory committee formed to study the problems of homosexuality. That committee made a submission to the Wolfenden inquiry in England in the 1950's. The committee was dealing with laws that existed in England at that time, and restated the church's opposition to all directly voluntary sexual pleasure outside marriage on the ground that such pleasure is sinful. It upheld the traditional justifications for criminal punishment on grounds of deterrents and reform, and suggested that retribution too might be a legitimate reason for punishing certain kinds of behaviour.

The committee distinguished carefully between sin and crime, defining the latter as a social concept, and not a moral one. I believe that that is very much the heart of the measures we are considering. The committee maintained that the State should not go beyond its proper limits in connection with justification for criminal punishment, and it advocated the abolition of all criminal sanctions on such behaviour as is to be covered by the bill before the House on the grounds that they are ineffectual, inequitable in their incidence, involve severity disproportionate to the offence committed, and undoubtedly give scope for blackmail and other forms of corruption. I believe those matters should be addressed when one is trying to draw up balances between the question of retention of a law and of morality. My mind and conscience are satisfied that there is a clear distinction between those two matters. It is important that the question I have posed be answered satisfactorily. Questions about apparent deficiencies in the bill as to what may or may not occur in public places should also be given due consideration and should be answered.

Finally I should like to say that in no way should anything that I have said be considered as in any way supporting a thin-edge-of-the-wedge approach to this matter. I believe there is a clear distinction between the legislation and conflict that occurs as a result of anomalies that exist. But, on the question whether they will lead to homosexual marriages, homosexual divorces and homosexual adoptions, my position is clear: I will not in any way countenance the acceptance of those as being representative that homosexuality is to be considered in our society as an acceptable alternative lifestyle.

Mr YABSLEY (Bligh) [5.6]: In taking my place in the Forty-eighth Parliament of New South Wales I congratulate you, Mr Speaker, on your election as Speaker, and other honourable members on the confidence of their electors have shown in them. I particularly hope that your express desire to see some elevation in the standard of parliamentary behaviour will be realized. I look forward to making a contribution to that higher standard of behaviour and trust that your impartiality and objectivity will lay the ground rules for the higher standard of debate and conduct. In the words of Edmund Burke, Parliament will benefit from the cold neutrality of an impartial judge.

Mr Speaker, mine is the electorate of Bligh. Bligh is frequently referred to as the most diverse but compact electorate in Australia. I have been warned by several experienced and respected parliamentarians to avoid the overused truism of referring to one's electorate as a microcosm of society. In relation to the electorate of Bligh, that description is too accurate to avoid. If ever an electorate were more like a nation than a tiny part of it, it is Bligh. Within just 10 square kilometres of the fringe of this great city of Sydney is Bligh. Bligh embraces the suburbs of Paddington, Kings Cross, Darlinghurst, Darling Point, Rushcutters Bay, Elizabeth Bay, Moore Park, Centennial Park, Potts Point and some parts of Edgecliff, East Sydney, Woolloomooloo, Surry Hills, Woollahra, Redfern and Double Bay. But Bligh is anything but suburban.

Within the boundaries of my electorate is a rich tapestry of life with an exciting and constantly changing texture. Exclusive international hotels stand beside hostels for the homeless and destitute. Bligh is home for a significant section of business and commerce, the Royal Agricultural Society, the Sydney Cricket Ground, Centennial Park, the arts, schools, hospitals, Garden Island and ethnic groups are all part of a vivid, fluid community. Some 38 per cent of the population of Bligh was born overseas, compared with the New South Wales average of 10 per cent. Ten per cent of the electorate hold tertiary degrees compared with the New South Wales average of 4 per cent. Only 33 per cent of Bligh residents live in traditional detached housing, compared with 78 per cent statewide. Approximately 70 per cent of the work force in Bligh relies on public transport to commute. Significantly, four out of every five electors in Bligh live outside the family unit. Bligh is an electorate of extraordinary human and physical contrasts.

It is no coincidence that my electorate is named after the former New South Wales Governor, Captain William Bligh. Like William Bligh, my electorate embraces fame and infamy, success and failure. Some of Australia's most severe poverty exists within a stone's throw of ultimate levels of material wealth. Thriving business and residential areas co-exist, often unhappily, with overt crime and corruption. The fabric of the inner eastern suburbs of Sydney is often mistaken as the highly visible decadence and poverty that exist side by side, often with one leading to the other. More important that any of the notable factors I have mentioned is that Bligh is home for 58 000 Australians, the vast majority of whom are "good, honest, hard working Australians", to quote the words used recently by my colleague, the honourable member for Clarence, in his fine maiden speech.

Captain William Bligh, like all my predecessors in this great electorate, had a spirit of adventure and a record of achievement. I pay tribute to those who have represented Bligh since it was created in 1962. Thomas Morey from 1962 to 1965, Mort Cohen from 1965 to 1968, John Barraclough from 1968 to 1981 and Fred Miller from 1981 to 1984. They are men who epitomize the contrast that characterizes Bligh. I expect I will add another dimension to that contrast. John Barraclough in

particular is synonymous with the electorate of Bligh. The enthusiasm and drive with which he represented Bligh for fourteen years is no less evident now in his various community interests and through his membership of the Liberal Party.

Mr Speaker, I am proud that six years after completing my education I have been called upon to serve in the mother Parliament of Australia. Like William Pitt, Earl of Chatham, "the atrocious crime of being a young man . . . I shall neither attempt to palliate nor deny". My education at St John's College, "Woodlawn", near Lismore, by the Marist Fathers and subsequently at the Australian National University had a profound impact on my perspectives and desire to achieve a position of leadership. I am sixth generation Australian and proudly the progeny of a pioneering and grazing family from the Richmond River on the far North Coast of New South Wales. I value the honour and opportunity my party and electors have extended to me. That opportunity has been made possible through the particular support of my wife, family, party and friends. Many of them are in the gallery today. They have high expectations. My efforts will be guided by the full knowledge that:

> For of those to whom much is given, much is required. And when at some future date the high court of history sits in judgement of us, recording whether in our brief span of service we fulfilled our responsibilities to the State, our success or failure in whatever office we hold will be measured by the answers for four questions: First, were we truly men of courage . . . second, were we truly men of judgment . . . third, were we truly men of integrity. Finally, were we truly men of dedication?

Those are the words of John F. Kennedy when speaking to Massachusetts State Legislature in January 1961. In opposition I sense it is too easy simply to "complain of the age we live in, to murmur at the present possessors of power, to lament the past and conceive extravagant hopes of the future", as Burke said. The tenets of courage, judgment, integrity and dedication will allow my time and my party's time in opposition to provide what Sir Robert Menzies described in his book *The Measure of the Years* as "an obligation to rethink policies, to look forward, to devise a body of ideas. Sound and progressive opposition must be regarded as a great constructive period in the life of a party, properly not considered a period in wilderness but a period of preparation for the high responsibilities that will come". And come they will.

Mr Speaker, today before the House is what is often described as one of the most contentious pieces of legislation to be considered in the history of New South Wales. For many members this legislation makes debate difficult, but silence impossible. It is contentious, not because if what it is, but because of what it is wrongly seen as being. Regrettably, both the avid supporters and opponents of this legislation have exacerbated the misunderstanding of this legislation. I will consider later the details of the bill, the background and the arguments surrounding it.

Part of the diversity of the electorate of Bligh to which I referred earlier is the largest homosexual community in Australia. There is an ongoing debate about the number of homosexuals in the inner eastern suburbs and as a percentage of the population generally. I hope we will stop wasting time in trying to quantify the size of the homosexual population. In the context of law reform, that question is irrelevant. I come here with idealism that part of a new morality in politics will be actions and leadership; not on the basis of how many people are for or against, or who was there first, but simply on the basis of what is right. The community debate on homosexual law reform and debate on this bill takes place against the background of legislative change in other States of Australia and other countries around the world. The debates and reports relevant to homosexual law reform predictably reflect profound differences of opinion and sincerely and firmly held beliefs. The landmark reports such as the

Wolfenden report in Great Britain in 1957, the Speijer report in the Netherlands, the report of the New South Wales Anti-Discrimination Board on homosexuality, and the report of the Catholic Education Commission on discrimination and homosexuality all reflect inconsistencies and contradictions as a result of what must inevitably be in many cases subjective information. I wish to inform the Parliament and ultimately my electors why I am supporting the legislation and in doing so be fully accountable for the trust the electors of Bligh have shown in me.

The legislation before the House comes to terms with the notion that adult individuals enjoy liberty and freedom provided that in the exercise of that liberty and freedom they do not interfere with the rights of others. Therefore, and as stated by John Stuart Mill, "The liberty of the individual must be thus limited: he must not make himself a nuisance to other people." Put another way, "Liberty too must be limited in order to be possessed". Fortunately, in a civilized society such as ours, rational human judgment defines and determines the limits of liberty and freedom. Where that judgment fails and does not pay sufficient respect to the rights of others, the law exists to protect our society and members of it.

The sections of the Crimes Act that this legislation changes have not been consistent with the fundamental, inalienable and indivisible rights of adults in a modern, civilized society. An introduction to a book by the Canadian Prime Minister, Mr Pierre Trudeau, called *Federalism and the French Canadian,* records: "In the last analysis the human being in the privacy of his own mind has the exclusive authority to choose his own scale of values and decides which forces will take precedence over others". Those are appropriate words in the context of this debate.

As important as the notion of freedom and liberty is, so too is that of the State offering protection to those who due to many factors are unable to protect themselves. In the context of homosexual law reform the greatest protection must be extended to males under the age of 18. I am satisfied that this legislation achieves that degree of protection—the protection will be enhanced with certain amendments proposed to the bill. Section 78o of the bill provides for harsher penalties for people placed in a position of trust and responsibility who have or attempt to have homosexual relations with a male under 18 years of age. The protection of minors in relation to homosexuality raises the question of equality, itself a fundamental right before the law. The age of consent provided for in this proposed legislation is 18. That is anomalous and inequitable between males and females on the basis that the age of consent for heterosexual acts is 16. I staunchly defend that difference in the age of consent between males and females. Equality cannot be regarded as an absolute maxim. The inequality contained in this bill in relation to the age of consent will provide a greater degree of maturity to allow young adult males to cope with the more complex question of a homosexual preference, rather than heterosexual preference, for like it or not, there are norms in our society. Heterosexuality is an established and recognized norm. Heterosexuality is the norm by which the human race exists, mainly through the family unit. But heterosexuality does not form the basis of a lifestyle; the family unit does. The family unit is, and will remain, the ultimate social unit in our society. Similarly, homosexuality does not and should not form the basis of a lifestyle.

The proposed legislation before the House recognizes that in dealing with the important question of a person's preference greater caution is exercised in providing the legal means by which a young adult male may make a decision that is a departure from, rather than adherence to, a norm. That is not to say that the prescribed age of consent of 18 will stop males making a decision at an earlier, or for that matter

later, age about their sexuality. Personal, private morality cannot be legislated when no one is being harmed or forced to act against their wishes. The Roman Catholic Archbishop of Sydney the Most Reverend Edward Clancy has recorded:

> The Catholic Church does not insist that all morality be enforced by positive law. The role of positive law, in the Catholic tradition of jurisprudence, is to promote the common good . . .

Appropriately, the law will stand firm in relation to offences against minors, sexual assault, incest, bestiality and other crimes. Who could argue that homosexual acts between consenting adults in private should be subject to criminal sanction at all, let alone criminal sanction greater than for some of the heinous crimes I just mentioned? Sections 79 to 81B of the Crimes Act as they stand are evidence that personal, private morality cannot be legislated. They are provisions that are unenforceable in a society based on liberty. Fortunately, for the most part they have remained unenforced.

The bill before the House will dispense with laws that embrace an imbalance in favour of legislated morality, rather than liberty, freedom and conscience of the adult individual. However, lawmakers are responsible to set parameters within which individuals can make decisions and other individuals or groups can seek to guide and influence those decisions. In this respect the family unit, the education process and the church are all of fundamental importance. The Dean of Sydney, the Very Reverend Lance Shilton, in a seminar on victimless crime said:

> Rightly or wrongly what is permitted by the State is assumed by most people to be right and proper. Political philosophers have been declaring constantly that you should not equate morality with law, yet that is what actually happens. To many people, particularly the young, crime alone is wrong and that which is lawful is right.

There are great strengths to Reverend Shilton's argument. There are also some exceptions. I doubt that the church would seek a place for adultery in the criminal code. I doubt that many parents would see the Crimes Act as playing a role in moral guidance and the broader education process. Where it does, those who have the responsibility for moral education have not been successful.

The homosexual acts under the circumstances provided for in this bill allow that balance between Parliament establishing a moral framework, and adult individuals being able to decide for themselves, within that framework. Therefore I support the bill because: it recognizes the liberty and freedom of the adult individual; it protects adolescent males; it sets a responsible framework within which individuals can decide about their sexuality; it strikes a balance between equality and the need to act cautiously in setting a moral framework; and it dispenses with unworkable laws. In examining objections to homosexual law reform in New South Wales, in other States of Australia and other countries around the world, some phrases emerge consistently: "The thin edge of the wedge"; "open the floodgates"; and "threaten the family and young males". The language is overwhelmingly emotional. However, it reflects sincere objections and fear of ultimately legalizing homosexual marriage, adoption of children by homosexual couples, homosexual education in schools and the general acceptance of homosexuality as a valid lifestyle.

I share the concern expressed by many people in relation to some of the recommendations of the report of the New South Wales Anti-Discrimination Board on homosexuality. In particular paragraph 7.25 recommends: courses in sex education introduced into primary schools in New South Wales include segments which provide balanced and non-judgmental information on lesbianism and male homosexuality; and

information about lesbianism and male homosexuality be included within any non-sexist project directed towards challenging the nature and limitations of conventional sex roles.

The recommendations of the Anti-Discrimination Board are out of step with the Department of Education's statement of principles, which is the guideline statement for personal development programmes in government schools. They are also out of step with what parents want for their children. A more general, though profound, criticism of the report is the apparent assumption that homosexuality is the basis for a lifestyle. This assumption cuts across the observations made by members throughout Australian Parliaments who have supported homosexual law reform. It cuts across a fundamental basis of our society. In response to the opponents of the bill, I emphasize that it does not embrace any approval of the homosexual lifestyle. There are within our society, and within my electorate particularly, small numbers of people for whom heterosexuality and homosexuality is a lifestyle and an end in itself. Unfortunately, there are those who support this legislation as a means to legitimize homosexuality as a lifestyle. Their attempts will never succeed.

Some homosexuals, like some heterosexuals, are overt and crass about their sexuality. Many homosexuals, like most heterosexuals, treat their sexuality as innately private. Some argue they are suppressed, intimidated, inhibited or just "still in the closet", and indeed some are. My view is that for the most part people who treat their sexuality as innately private are simply treating it with appropriate respect and privacy. After all the arguments for and against, I return to the point where I started. "The only purpose for which power can be rightfully exercised over any member of a civilized community against his will is to prevent harm to others". That is a quotation from J. S. Mill, in *Essay on Liberty*. I support the Bill.

Mr PETERSEN (Illawarra) [5.32]: I have a great deal of pleasure in speaking in support of the bill which, if passed, will decriminalize homosexual relationships between male consenting adults. I commend the Premier for introducing the bill. Of course there is no need for any bill to legalize lesbian relationships; they never have been illegal, which shows how illogical and irrational is the medieval legislation that honourable members will repeal today. The political storm troopers from the neo-fascist right of this Legislative Assembly have let the world know where they stand. The Leader of the National Party made his position clear at the weekend by declaring that the Premier seems to be too deeply involved in liberalizing the laws for homosexuals to pay sufficient attention to the need for protecting the New South Wales milk industry. He has repeated this argument today and listed a dozen or so items that the Premier could better spend his time on. It is the old, old game, It is one with which I am familiar. My opponent in the Australian Labor Party preselection ballot in 1977 for endorsement as the ALP candidate for Illawarra used to say, "George Petersen is too tied up with prostitutes, poofters and prisoners to look after his electorate". What Mr Punch and people like him do not say is that they support the harassment and persecution of male homosexuals.

Because this approach is totally indefensible by any criteria of humanity, because this approach is simply a continuation of the behaviour of such aberrations of humanity as the world's vilest modern tyrants—Adolf Hitler and Joseph Stalin—because it is a continuation of the practices of Mathew Hopkins, the witch finder of Stuart England, and Torquemada, the monster of the medieval Inquisition, they cannot and will not tell the truth about their real beliefs, for their real beliefs are totally unacceptable to ordinary decent human beings in 1984. I invite the Leader of the National Party and the members of the National Party to tell the truth about their attitudes to homosexuality. Do they believe that all homosexuals should be gaoled for fourteen years if they engage in consenting homosexual activity? Do they believe

that the so-called abominable crime of buggery should carry the same or a greater penalty than manslaughter? Do they believe that there should be no reform of the law whatever?

I invite the Leader of the National Party, for what is possibly the first time in his life, to tell the truth and not simply engage in pejorative and prejudiced attacks on other people, based on phoney arguments without ever producing any facts, statistics or logical arguments. It is indicative of his arguments here today that he condemned Sydney for having the largest homosexual community in Australia. There is a simple reason for that. It happens to be the largest city in Australia. The Leader of the National Party attacked the Premier's religious beliefs in an attack which I find completely reprehensible and deplorable. It was modified only by the joy I got out of the laughter from the gallery when he suggested that the Premier wanted to perform homosexual marriages. I invite the Leader of the National Party to tell the House, if he can, how the moral standards of Victoria and South Australia have been eroded by the 1975 legislation in South Australia, passed under a Labor Government, or the 1980 legislation in Victoria, passed under a Liberal Government, which gave sexual equality between heterosexuals and homosexuals, including a common age of consent.

The Leader of the National Party should prove to the House, if he can, how community morality is at a lower ebb in those States than in New South Wales. He should prove to us, if he can, how our morality in New South Wales is lower than it is in the Soviet Union with its draconian laws against homosexuality. He should prove to us, if he can, how other communist countries with liberal laws dealing with homosexuality, such as Yugoslavia, are in some way worse than, or in any way different from, the Soviet Union. I suggest to people who oppose this proposed legislation that they should give facts, figures and statistics, but not unsubstantiated rhetoric. To make the demand is to answer it. Of course they will not, for they know very well that their case is simply one of blind homophobic prejudice, which takes no account of humanity or reality.

I see no need for me to recapitulate the arguments that I used in 1981 and 1982 in support of the bill that I introduced in 1981, or the remarks I made in Opposition to a bill introduced in 1981 by the former member for Cronulla, Mr Michael Egan, or the remarks I made in qualified support of the bill introduced in the Legislative Council by the Hon. B. J. Unsworth. I would not want anyone to regard what I am about to say as any criticism of the highly principled behaviour of the Hon. B. J. Unsworth on this issue. I now believe I was wrong in supporting the Unsworth bill. In essence, it did not give complete equality; it was something like the Canberra legislation which limits legal homosexual relationships to those committed in private behind closed doors, but what seems to work well in Canberra to protect the rights of gay men apparently would not apply in Sydney.

The Club 80 raids indicate, our police force being what it is in the sense that its attitudes usually reflect most reactionary social stances, that unless there is complete equality, it is inevitable that some police officer, acting on his prejudices, will use the existing law to persecute homosexual men engaging in consenting behaviour, which would not be an offence if engaged in by heterosexual men and women. For that reason I support the bill. I regret that the Premier has not followed the lead of the South Australian and Victorian legislation and made the age of consent 16 years.

It is a tribute to the Premier's honesty that he has said clearly that he has done so only to attract the vote of the majority of members, although I remember that when I introduced my private member's bill in the House in 1981, I was told it would not go through because the age of consent in the bill was 16. Even when I said I was

willing to accept an amendment to age 18, only 26 members of the Australian Labor Party and two independents voted for it. The argument most commonly given is that since the age of consent for marriage is 18 for men and 16 for women, then the age of consent for male homosexuals should be 18 and not 16, which is the age of consent for females. The differing ages of consent for marriage are not based upon any biological imperative, but based simply upon the sexist and false concept that man is always the head of the family, the protector and provider for the wife and children. Consequently, he must be adult to provide for the family unit and earn enough to keep them, whilst all that is required of the woman is to have reached the age where she can bear children.

As a justification for the differing ages of consent between male and female, the argument is completely untenable. In fact, in heterosexual intercourse there is no age of consent for males. What does worry me about the age of 18 concept of the age of consent for homosexuals is the fact that, because there is no complete equality between heterosexuals and homosexuals, homosexuality will be seen to be a form of sexual expression which is particularly harmful to the young. The bigots who have written to me or telephoned me on this subject invariably protested they are concerned with protection of the young. When one quotes statistics which show that people who molest children are almost invariably male heterosexuals they usually relapse into dogmatic rhetoric. In fact, child molesters can be either heterosexual or homosexual —although since there are fewer homosexuals than heterosexuals, there are fewer homosexual molesters. In fact, the percentage of homosexual child molesters is much less than the percentage of homosexuals in the community would suggest. Having the age of consent set at 18 simply means succumbing to the pressure of the bigots. The whole question of the age of consent needs to be examined. It is shot through with prejudice and assumptions based upon the concept that women are the chattels of men and that a man's property must be protected. As I have said on other occasions, one should note that there is no age of consent for males engaging in heterosexual activity. The only reason for including an age of consent at all in a bill for homosexual reform is in order to show equality between heterosexuals and homosexuals, with its advantages and its defects—to show it warts and all.

The fact that there is this prejudice against homosexual youth in the Premier's bill has led the group known as 20/10, the Gay Youth project, to describe the bill as an abomination and a tragic attempt at law reform. The group says it will initiate and encourage a massive police crackdown on under 18-year-old gay youth. It points out that the report "Young and Gay" found that most young gay males and over one-third of all young lesbians have recognized their homosexuality well before turning 15. I feel a certain sympathy with them. The injustice suffered by young women and girls in the past under the draconic "exposed to moral danger" provision of the old Child Welfare Act can still apply now to young gay males if this bill now becomes law. That is one reason why I have a certain reluctance in supporting this bill and why I have described it in the Wollongong press as worth two-and-a-half cheers. I am one of those people who do not believe that it is completely satisfactory.

Basically, in order to appease certain reactionary forces in Australian society, an age of consent 18 instead of 16 was included in this bill. That is my first basic objection to the bill. I have three others which flow from this deficiency. One objection is that there is a lack of provision for a defence clause where a person appears to be above the age of consent and is in fact below it. There is such a provision in the laws relating to carnal knowledge of females where a young woman is under 16 and over the age of 14, that the man having sexual relations with her believes that she is at least 16 years of age. If that belief is genuinely held, then it can be used as a defence against the charge of carnal knowledge of a female under the age of 16. I point out that in the Northern Territory, where the age of consent is 18 and where

the legislation is very much worse than the Premier's bill in this State, there is a defence clause involving males between the age of 16 and 18. In similar circumstances where a gay man picks up a gay lad in a hotel he could reasonably assume that the male concerned is an adult because only adults are allowed to drink in hotels. But if he is apprehended and the lad turns out to be 16 or 17, his belief would not constitute a defence because in this bill there is no defence clause in cases involving boys from 16 to 18.

My other two objections involve indefensible anomalies. Under present law the act of fellatio, if performed with a boy under 18, is simply regarded as indecent assault punishable with two years' gaol. By this bill, it becomes sexual intercourse with the excessive penalty of ten years. Also, the penalty of ten years' gaol for sex with a male under 18 years takes no account of whether the offence is consenting or non-consenting. Therefore, if this bill becomes law, homosexual actions between consenting males, one of whom is under the age of 18 years, will carry a penalty of ten years, while homosexual rape in the lowest category carries a penalty of only seven years. When the bill reaches the Committee, my colleague the honourable member for Balmain and I intend to move amendments covering these four points. If my amendments are not carried, I ask the Premier and the Attorney General to have these anomalies and defects corrected in the review of the Crimes Act to be carried out by the Attorney General.

I also mention one further point that disturbs me. I refer to young males under the age of 18 who engage in sexual experimentation with one another, as boys have done since time immemorial. Kinsey says that 37 per cent of males have a homosexual experience at some time or other. My guess is that most of these occur during the years of sexual experimentation and during adolescence with other boys of the same age. Can we justify ruining a boy's life by prosecuting him under clause 78K, which carries a penalty of ten years, or under clause 78Q, which carries a penalty of two years, for what is just sexual experimentation? To ask the question is to answer it, though I have no doubt one would get a different and totally inhuman answer from the bigots of the National Party. I am aware that under clause 78T (2) such a prosecution must have the consent of the Attorney General, and I commend the Premier for introducing this provision into the bill. My reservation about this provision is that I have an inbuilt prejudice against assuming that all Attorneys General would always have the omniscience to deal humanely with such a case, as I believe the present Attorney General would do. After all, this State once had Robert Ley as its Attorney General, and in future it may have another. I would much prefer to see that defence to be spelt out more clearly so that young men under 18 years engaging in what is basically harmless activity should not be penalized. That should be guaranteed by the law. I do not know how to so draft an amendment to satisfy this inadequacy, but when the review of the Crimes Act takes place it, as well as the other four anomalies and defects to which I have drawn attention, should be considered.

Despite its inadequacies and anomalies, this bill represents a significant step forward, although it would have been much better if it had been a Government bill. As a party politician, and particularly as a Labor parliamentarian, I find the whole concept of the conscience vote indefensible. The Labor Party was not formed in 1891 when thirty-eight Labor candidates were elected to the New South Wales Legislative Assembly. Its formation date must have been at the 1893 State Conference which established the principle of the caucus vote, although this decision meant that the party lost most of the parliamentarians elected in 1891. If our forefathers had not done that, we would never have had a Labor Party at all. The Labor Party would be something like the American Democratic Party to which workers belong but which millionaires run and which is indistinguishable from the Republican Party. Having

said this, I commend the Premier for bringing this bill forward. It has been an unconscionable time coming. If the bill is defeated on this occasion, I shall go to the ALP conference to argue for abolition of the conscience vote. If it is carried—I expect that it will be—all I can say is that I am proud to have played a part in the process of achieving a minor reform but one which is vitally necessary if justice is to be done to a large number of decent men, mostly law abiding citizens, who are treated as criminals by the machinery of the State. In conclusion, I shall say a few words on behalf of another group, the lesbians. Though they are not subject to criminal prosecution, they are in fact discriminated against in the social mores of our society. If male homosexuality is to be decriminalized, then lesbian women will be in a much better position to resist the social discrimination now being practised against them. I commend this bill, together with the proposed amendments that I have foreshadowed.

Mr J. A. CLOUGH (Eastwood) [5.50]: The reference by the honourable member for Illawarra to 37 per cent of males having had a homosexual experience is news to me. I do not accept that statistic. The Premier has said in this House that 10 per cent of the population indulges in homosexual practices. I do not believe that either. However, 10 per cent is a long way from 37 per cent. Similar bills have been introduced to the House on three former occasions. If I remember correctly, the Premier said, "Well, this issue has been before the House three times. Enough is enough." He intimated that honourable members would not see such a bill before the House again. Yet, virtually less than a year later, the bill is back. Who introduced the bill? The Premier did. I might have something to say later about that. It seems extraordinary that the debate has revolved around age, as though all that is involved is whether the age of consent should be sixteen or eighteen, or fifty-eight or sixty-eight. That is not the essence to me. It is the practice of homosexuality that I object to and do not support. I have said before that though I do not in any way despise people who indulge in such practices, I could not in any way support them—at any age.

I have read some recent reports by the Gay Rights lobby. Their concern is that consenting homosexuals may be sentenced to fourteen years' gaol, whereas heterosexual assaults attract a penalty of only seven years. This surely is a case of throwing out the baby with the bath water. The simple remedy is either to reduce one or increase the other. There is no need to throw out the baby with the bath water. The Gay Rights lobby referred also to the fact that though homosexualtiy remains illegal it is an offence under the Anti-Discrimination Act to discriminate against anyone on the ground of homosexuality. That is not true. I shall return to that aspect. The Gay Rights lobby is seeking also the repeal of sections 79 to 81B of the Crimes Act, so as to give homosexual men equality in law with heterosexuals. That is contradictory and illogical. If such an anomaly exists the proper course is to encompass heterosexuals within those sections dealing with the age of consent. It is not necessary to adopt the alternative in order to meet the wishes of the homosexual community.

Some proponents of the bill build their case around law reform. One supporter of the Government, I think the honourable member for Illawarra, on a previous occasion in this House based his support for the practice and the bill by declaring that discrimination against homosexuals was discontinued in France 178 years ago. I suggest to honourable members that this is a good reason to oppose the bill. For where is sexual depravity more rampant than in France? Consider that country's record of ineffectual defence of itself in World War I and World War II and the fact that France is now labouring under the yoke of communism.

Mr Ferguson: What?

Mr J. A. CLOUGH: Socialism is virtually communism there. No doubt this all results from the lack of purpose of these people, resulting from lower moral standards in consequence of deviant moral behaviour. The situation is similar in Italy.

Mr Ferguson: That is a Christian country.

Mr J. A. CLOUGH: It is not. There is a communist controlled Government in Italy. Some supporters of the Government who look through rosy glasses with appreciation and ancestral admiration to the Emerald Isle of Eire express misguided Christian charity towards this bill. However, in recent times moral standards have regrettably declined dramatically in the land of St Patrick. There is evidence to the effect that, particularly in Dublin, communism is rapidly gaining ground. I plead with those so minded to weigh up the pros and cons carefully. It is right and proper to extend the normal courtesies and consideration to homosexuals, but approval of their aberration would be wrong and should not be condoned. Reference is often made to blackmailing of homosexuals under the existing law. Such statistics and evidence as is available to me do not support a claim that blackmail is either of frequent occurrence or of serious nature. An odd case may occur, but I contend that one swallow does not make a summer. The occasional case of blackmail does not indicate evidence of serious blackmailing activities within the community. On many occasions in defending his law and order legislation, the Premier has virtually said as much. The fear of the community with regard to blackmailing of homosexuals is no different from certain other misdemeanours committed by pillars of society. If an occasional person were blackmailed in these circumstances, it would have no greater consequence than when pillars of society come before courts and are sent to gaol for misdemeanours of one kind or another.

The supporters of the bill apparently believe that its carriage will give justice to homosexuals and relieve them of the burden they now bear. I believe that its carriage will do nothing of the sort. I am convinced that decriminalization of homosexual practices will not assuage the minds and hearts of homosexuals who in my opinion wrongly believe that by the bill they are being made respectable under the law. I say that their crown of thorns and mental anguish, their bleeding hearts and physical trauma, will be relieved only by rejecting the cause of their torment. I say to them with all the sincerity at my disposal that there are persons and avenues in this community who can and want to help them overcome their problems. The only positive result of the passing of this bill will be to expand the horizons of homosexuals and permit them to cajole and inveigle more and more of our less resilient youth into their unhappy and unwholesome way of life.

I return to the record of the Government and its claims about its achievements in law reform and its administration on behalf of the people of New South Wales. The major achievements of the Government have been detrimental and have resulted in a distinct lowering of moral standards in the community. I refer especially to the repeal of the Summary Offences Act, the introduction of the Evidence Act, which reposes all power in the Government, and the special commissions of inquiry legislation, which is a poor substitute for Royal commissions which can conduct full and wide-ranging inquiries. The Government's achievements in promoting welfare in the State are so paltry as to be almost non-existent. The Government has relied on cosmetic scenarios and bread and circuses as embellishments with the result that there is 11 per cent unemployment in this State, leaving the State's youth in bewilderment and its middle-aged retrenched in despair.

[*Mr Speaker left the chair at* 6.0 *p.m. The House resumed at* 7.30 *p.m.*]

Mr J. A. CLOUGH: Before dinner I was saying that the Government's achievements in promoting the welfare of the people are so paltry as to be almost non-existent. The Government has relied on cosmetic scenarios and bread and circuses embellishments, with the result that 11 per cent of the work force in this State is now unemployed. Our youth are left in bewilderment, and the middle-aged are retrenched in despair. What is the Government's answer to all this? It is to draw red herrings across the trail and to deflect the attention of the people from the real issue by raising and promoting these emotive, so-called reforms of decriminalizing sexuality, something which directly relates to a small but vocal minority who, though few in number, are powerful and persuasive because many of them are in important and influential positions and places.

Mr Landa: What about the Young Liberals?

Mr J. A. CLOUGH: I disagree very much with the Young Liberals. Their views have not been listened to very much for a long time.

Mr Landa: Nor have the views of the honourable member.

Mr J. A. CLOUGH: That may be the Attorney General's view. I have been flooded with letters and petitions on this issue, but have received only one letter supporting these measures. I have oodles of letters and petitions speaking out against the bill. Indeed I have presented to this House each day for the past two weeks a number of such petitions. The Attorney General says that nobody listens to me. He is mistaken. He left his easy sleazy eastern suburbs to move with great grace into the Peats electorate in order to become a member of this House. If anyone is not listened to, it is the Attorney General. No member of the Government has a worse record than the Attorney General. When he was Minister for Education I sought to raise with him an important matter concerning my electorate. I refer to the Karonga school for the handicapped. I telephoned him, my staff telephoned him; we sent telegrams and letters to him, but for three months the Minister did not reply.

Mr Landa: I never listened to the honourable member either.

Mr SPEAKER: Order! I call the Attorney General to order.

Mr Petersen: On a point of order. The Karonga special school for the handicapped has nothing to do with homosexual law reforms. I ask that the honourable member be directed to discuss the measures contained in the bill.

Mr SPEAKER: Order! The honourable member for Eastwood has strayed a little from the bill. I ask him to make his remarks relevant to the question before the Chair.

Mr J. A. CLOUGH: I wish to refer now to the *Catholic Weekly* of 9th May, to which the Deputy Premier and Minister for Health referred earlier tonight. I intend to read to the House some six questions asked in the editorial of that publication, which states:

> The Parliament of New South Wales is therefore faced with the following questions:
>
> > Does the present legislation on the commission of homosexual acts between consenting adult males in private work against the common good, at least in the sense that it invades private morality to the detriment of the common good?
> >
> > Is there a legitimate public interest in the commission of such acts? If so, what part does legislation have in promoting that interest?

> Will the proposed legislation be designed to help homosexuals assume a proper place in society without declaring their way of life to be an acceptable alternative life style, or will it go beyond the protection of their individual rights to placing homosexual partnerships on a par with marriage?
>
> Will the proposed legislation strengthen marriage and the family, or will it make the promotion of secure family relationships more difficult than before?
>
> What effect will it have on the self-perception of those, especially young people in the process of coming to terms with their sexuality?
>
> What provision will be made to protect the young against seduction?

As a man of the Catholic Church I was delighted to read the questions, but regretted that no solutions were provided. I add to those six questions a seventh question on this matter. In my view the carriage of the bill before the House would promote a situation in which most people would believe that as it is legal, it must be right. That is a serious danger in the measures. Young people particularly believe that if it is legal, it is right. After considering the matter in detail and having added a seventh question, I have come to the conclusion, without equivocation, that I must oppose the bill. I shall turn now to one or two other matters; for example, the claim that decriminalization of homosexuality will enable homosexuals to live normally, and that the practices in which they indulge are no great risk to the rest of the community. But what do we find? Without going to the details of the measures, we find that schedule 1 contains a number of provisions dealing with homosexual intercourse. Proposed section 78H provides:

> A male person who has homosexual intercourse with a male person under the age of 10 years shall be liable to penal servitude for life.

Schedule 1 provides for the insertion of a new section 78I, which deals with attempt or assault with intent to have homosexual intercourse with a male under 10 years of age. Proposed sections 78I, 78J and others have similar provisions. However, my point is that the Premier, his Government and supporters of the bill will say that homosexuality is not a serious matter; that it is a matter that ought to be allowed to be indulged in by those who wish to, when they want to. Notwithstanding their claims, the bill contains measures that warn of what can happen if certain acts take place.

Mr Landa: The sections referred to by the honourable member relate to sexual intercourse with male persons under the age of 10 years.

Mr J. A. CLOUGH: I point out to the Attorney General that the bill is dangerous because, from information I have, homosexuals are prone to seeking out young children.

[*Interruption from gallery*]

Mr J. A. CLOUGH: Visitors in the gallery may laugh, but that is an established fact.

Mr Petersen: Why does not the honourable member give statistics and facts to support his claim?

Mr Landa: What about old men seeking out young girls?

Mr J. A. CLOUGH: I will look at that matter. However, the situation is that I want to touch a matter that goes back to the Anti-Discrimination Act and link some of its provisions with my contention that the bill before the House has many

serious implications. The Anti-Discrimination Act of 1977, and the amending Act No. 142 of 1982, gave private schools, of which I am an avid supporter, exemptions from employing homosexuals and provided that private schools may not enrol a homosexual child or having enrolled a homosexual child, may expel that child. I wish to draw the attention of honourable members to the fact that such exemptions are not available to parents who send their children to non-private schools. Therefore the Government is discriminating against at least 70 per cent of the population. It is no use telling me that only the private schools want those exemptions, because in my electorate are non-private schools, and parents who send their children to those schools are just as concerned about matters of homosexuality.

Why should private schools be exempt but not public schools? The Premier has said that the bill will remove the greatest injustice, the greatest inequality, within our society. I say that the greatest injustice and the greater measure of inequality occurs when the Government imposes an unwanted law on the 70 per cent of the community who do not send their children to independent schools. The Government is discriminating by doing that in these very matters. I hope that in the ultimate public schools will be given the same rights as private schools so that they can refuse to employ homosexuals and can expel homosexual students. What is sauce for the goose should be sauce for the gander. In saying that, I am not in any way detracting from the exemptions given to private schools. Everybody knows that I am a supporter of private schools. I am in favour of giving financial aid to independent schools. I always have been and always will be. The Government has not given enough aid to independent schools. I have raised this matter because I believe that the Premier is insincere in introducing the bill. Even more to the point, the Government's objective from the time of the 1977 Anti-Discrimination Act until now has been to achieve by stealth the decriminalization of homosexual acts, and to give free and unfettered equality to homosexuals. First, it gave a hand out to the private schools, getting them on side by exempting them from the anti-discrimination provision. The next move has been to decriminalize homosexual acts. The move after that, despite what has been said, will be to allow homosexuals to marry and adopt children. Some honourable members have said of this bill, "I go thus far but not farther". Members will vote for this measure despite the fact that they opposed similar bills on three occasions.

Mr Petersen: Tell us what happens in South Australia and Victoria.

Mr J. A. CLOUGH: If New South Wales is supposed to be the premier State, let us keep it that way. Let us be that much different. Let us give example to others. On the question of schools, there are just on 775 000 students attending Government schools in New South Wales. There are 363 secondary schools and 1 700 primary schools. All of them are being discriminated against by this bill. Those adversely affected should demand the same treatment for public schools as is given to private schools. I would support them absolutely in any action they decided to take along those lines. My time is getting short——

Mr Petersen: It cannot run out soon enough.

Mr J. A. CLOUGH: Wait until the next elections. The Opposition parties started to carve up the Government at the recent elections. They will finish the job next time.

Mr Landa: That is a long way off.

Mr J. A. CLOUGH: The Attorney General should not talk. He will never see the Premier's chair.

Mr Landa: I certainly have a better chance of doing so than you do.

Mr J. A. CLOUGH: That is only because the honourable member is younger than I am. If he lives long enough, he could be lucky. I refer next to a letter that I received from the Festival of Light. I have read it carefully—and I have received a lot of information about this measure in the past few weeks. I pay a tribute to Marie Bignold, LL.B., who prepared the letter. There are a number of succinct points in it to which I invite attention. I recommend a reading of the letter to all. It says in part:

> That rationale of the Wran bill is unmistakable recognition, as proper legitimate and acceptable in society, of anal intercourse. Keeping law out of the bedroom is no longer justification or foundation for this law. It is outrageously explicit approval and brazen recognition of the rightness of anal intercourse, or in other words, sodomy.

That is very much to the point. It goes on in the following terms:

> This is contrary to the United Kingdom Sexual Offences Act, which retains the crimes of buggery and soliciting and importuning for immoral purposes. The Wran's bill explicit approval of homosexual conduct including homosexual intercourse will expose the whole of society to the public advancement and display of the homosexual cause. Inevitably this unfettered promotion of the homosexual cause will produce irresistable pressure for further radical changes in legal and social policy to equate homosexuality with heterosexuality—for example, homosexual marriages and adoption.

She points out that clause 78 provides for delay in prosecution, referring to the 12 months' factor and says that this will lead in effect to a *de facto* reduction in the age of consent to the age of sixteen. There is no justification for this measure. There is limited community support for it. The great majority of the people of New South Wales do not want it. The Government knows that, because at the recent election, it did not mention the matter. The Premier said after the House had rejected a bill on this subject matter for the third time, "Well, we have had it three times. Enough is enough. We are not having it again." I was hoping somewhere on the Treasury benches there would be a John the Baptist, or a St Thomas More to lead his colleagues on this matter. St Thomas More said, "I serve my King loyally and well, but I serve my God first."

Mr Landa: John the Baptist finished up with his head on a tray.

Mr J. A. CLOUGH: Certainly no one in the Government ranks was willing to risk having his head put on a tray. John the Baptist was proved right by time. The Government will be proved wrong. The great majority of people do not support the bill and it should not be allowed to pass. During his term of office the Premier has been acclaimed as an able and astute politician. Judging from his decision to introduce this bill, I would say cleverness is not synonymous with wisdom, and I warn him that this exercise in vanity and deception may well prove to be his Achilles heel, or the beginning of his Waterloo. I conclude by appealing to honourable members to uphold the high moral standards which I believe they truly espouse, despite what has been said tonight. I will vote against all stages of the bill.

[*Interruption from gallery*]

Mr SPEAKER: Order! Visitors to the public gallery must not behave in a disorderly manner.

Mr R. J. CLOUGH (Bathurst) [7.49]: I earnestly request that nobody ask me to be the John the Baptist of this debate. I should like to keep my head for a few years yet. On the attempt by my colleague the honourable member for Broken Hill to make me saintly, I say merely that in order to be canonized one must first be dead.

A grave error made in this type of debate, when it is open to members to vote in accordance with their conscience, is that so many fall into the trap of using the occasion to direct criticism at the Government or the Opposition.

I oppose the bill not as a member of a religious group or, I hope, as one who exhibits intolerance to those whose lifestyles are different from mine. I oppose the bill because I believe homosexual behaviour is unnatural and causes many social ills. The bill is opposed by that great silent majority of constituents who rely upon members like me to put forward their views. I oppose the bill because I do not believe that whether the age of consent be 18, 16 or even lower, that the measure should bestow a degree of respectability on conduct that most Australians would vehemently reject and say that such conduct is not for them. A person with homosexual tendencies or who engages in homosexual practices should be helped but not encouraged by giving the aura of respectability to such practices. Many words have been spoken each time a similar measure has come before the House. Remarks have been made that an opportunity has been given to criticize the Government's opponents. Some comments have been based on hypocrisy. However, a good deal of argument for and against the measures has been by average people trying to come to grips with their conscience on a matter that will be a cause of concern for some time.

I do not have the clear-cut impression that I am here to save the world—I shall leave that to those capable of doing it—or that my religious view is necessarily that of those whom I represent. I take part in the debate because people in my electorate have told me in no uncertain terms that they oppose the measure and expect me to put their view before the Parliament. That is exactly what I am doing. Not one person has said to me that he or she supports the measure. I have not received a telephone call, letter or any form of correspondence from a constituent in support of the bill. I have been inundated with the usual circular-type material from outside my electorate. I have read the material and put it to one side. Probably I have not received such communications because my attitude is fairly well known and people may well say what is the use. However there must be some supporter of the measure within my electorate who is not aware of my attitude. Such a person should have let me know his or her thoughts.

My electorate contains many working-class people from the industrialized areas of Lithgow, Portland, Wallerawang, Cullen Bullen, and the City of Bathurst and its surrounds. I thought that someone from that community would have stated his or her support for the bill. There has been plenty of opposition to the bill. I have had letters, petitions, telephone calls and personal calls to my home and office and there is no doubt in my mind how the community in which I live and work views homosexual behaviour. Candidly, I do not believe that many of them care about the fourteen-year penalty or any other penalty that the Crimes Act provides for homosexual offences. However, they do believe that homosexuality behaviour is abnormal. The practice is increasing because of the well publicized exploits of a very vocal minority who appear to have the support of a section of the news media and who wish to establish respectability in a lifestyle contrary to the natural laws of God and man. I admit that I find it difficult to moralize because I have so many failings of my own. Also, I find it difficult to make references to practices that are contrary to my personal outlook and that of the majority of my constituents, who, as I said earlier, are opposed to the introduction of the bill.

In the weeks prior to the introduction of the bill I thought a great deal about this matter. I spoke to many people and asked them what they thought, what they thought I should do, and whether they thought I was competent to make a judgment on someone else in this Parliament. Not one person said that I was suited to do that. However, I was told that I had to adopt the views of my constituents. I sought

advice from those I have known and from senior churchmen whose opinions I have always valued on many issues, such as education and health, and now in an attempt to distinguish whether there is any difference between crime and sin from the religious view. The advice I got is plain enough: homosexual behaviour is unnatural behaviour whether it be performed by men or women. I refer to a speech I made in 1981. At that time I quoted two eminent churchmen in part, the former Catholic Archbishop of Sydney, Cardinal Sir James Freeman and Sir Marcus Loane. In that speech I quoted Cardinal Sir James Freeman in these terms:

> Homosexual acts whether above or below the age of consent are morally wrong and contrary to natural law.
>
> There are very few police prosecutions for breaches of the law relating to homosexuality. Most of those are for assault where young children are involved or lack of consent is in issue.

In that same speech I quoted the Anglican Archbishop of Sydney, Sir Marcus Loane, who said:

> Homosexual conduct is wrong at the age of 16; it is wrong at the age of 18; it is no less wrong at any age or in any circumstances. If the current penalty is too severe, the proper course would be a simple amendment to reduce the maximum sentence of 14 years to something more appropriate. The main reason why this bill has been promoted is on the ground that the current penalty is too severe.

I believe that to be true today. It is one of the main reasons why the bill has been introduced. The measure seeks to avoid the imposition of the penalty under the provisions of the Crimes Act. Sir Marcus Loane continued in these terms:

> If it is passed, it will give those who engage in homosexual practice a legal recognition and social status which has never been before thought desirable.

He then commented on the promotion of homosexual conduct in gay literature. The quote continues:

> It is revolting, degrading, subversive of family life and destructive of society. For these reasons the bill ought to be rejected.

I agree with the remarks of the Archbishop. I ask my colleagues to reject the bill in its present form.

Mr ROZZOLI (Hawkesbury) [7.58]: My contribution will reflect the comments made by the honourable member for Bathurst. I oppose the bill. I speak on behalf of the vast majority of my constituents. The honourable member for Bathurst also spoke on behalf of the vast majority of his constituents. Like the honourable member I have never had, in the eleven years that I have represented the seat of Hawkesbury, a letter from a constituent in support of such legislation. About nine years ago I had a visit from a young person who asked me to give consideration to a similar type of measure. I asked him why I should do that and he said that homosexuals were being discriminated against. I asked him in what way. I was interested in his reply, which was that he had not been discriminated against but had been told that others had been. I then asked him to give me details of the discrimination. To this day I have never had a return visit from him. That is the only instance in my electorate of anyone who has stated support for this form of bill. That is grounds alone for speaking against this proposed legislation. I oppose the bill also because I share the view so solidly expressed by my electorate. Like the people of Bathurst, the constituents of the Hawkesbury

electorate in their thousands have protested against the passage of this legislation. The essence of the Premier's involvement in this legislation and its introduction at this time can be found in his speech upon the introduction of the bill when he said:

> I believe we are at a point of time at which as members of Parliament and as members of a civilized community we can no longer abide the blatant discrimination, and unfairness endured by homosexual members of our society and that the community is ready to support this type of legislation.

In other words the community is ready to accept the legislation. That having been made the basis upon which this legislation has been introduced, I think it fair to consider whether there is that widespread community acceptance that the Premier suggests. It is my belief, which I know is shared by many other honourable members, that that is not so. I believe many of the members who echo my sentiment have a close relationship with their electorates; they are concerned and are closely identified with their constituents and are therefore in a good position to understand their opinion. I challenge the Premier to substantiate his viewpoint by putting this matter to a referendum. I have said that I oppose this legislation because I believe my electorate opposes it. I believe also that the majority of people of New South Wales oppose it. However, if it were proved at referendum that I was wrong, I would happily support the bill.

Mr Landa: What do you believe yourself?

Mr ROZZOLI: If the Attorney General had listened he would have heard me say already what I believe. I believe that as members of Parliament we have a responsibility not only to what we believe as individuals but also to what our electorates believe and what the electorate at large believes. We cannot, as representatives of the people, ignore the opinion of the majority of the community. I have challenged the Premier to place the matter before the people at a referendum. If the people of New South Wales agree by referendum to the passage of this legislation, nothing should impede it. However, if it is demonstrated that the people of New South Wales are opposed to the legislation, the bill should not be passed. To that end I shall move the following amendment. I move:

> That the question be amended by leaving out the word "now" with a view to adding the words "this day six months".

That is the traditional parliamentary procedure at the second reading stage for deferring legislation. I have followed that procedure because it is not possible at this stage of the debate to move an amendment to institute a referendum, to put that question to the Parliament. The amendment I have moved will allow the Parliament time for the introduction of a further private member's bill in the terms necessary to establish a referendum so that the question whether this matter has community acceptance or not can be put to the test and confirmed one way or the other. I also object to the bill in its present form on the premise that it is a matter of grave urgency. Many urgent matters come before this Parliament. Most of them have to take their place with all the other measures that come before the House. It is rare that a matter comes before this House that is truly urgent. When that happens, the matter invariably has the acceptance of both sides of the House. In a genuine case, urgency is agreed to and both sides support the passage of legislation to deal with the matter.

The Premier has used the tactic of presenting the bill as a private member's bill. By doing so he is claiming to be no more than a private member, the honourable member for Bass Hill. I challenge him to provide any evidence that the constituents of Bass Hill electorate are in favour of this legislation. But at the same time

he has demanded and received from many members of the Parliament acquiescence by virtue of his position as Premier of the State. The two things are a contradiction that I find objectionable. If the Premier wished to bring this matter forward as a private member's bill, he should have allowed it to take its normal course as a private member's bill; that is, he would give notice of the introduction of the bill and seek that that motion be debated on a particular day, when the forms of the House would be followed. The matter would duly arise in the conduct of the business of the Parliament. Although on private member's day the debate is terminated at 4.15 p.m., two hours after its commencement, I have no doubt that for a question of this importance the time would be extended. But I do not consider there is any case for taking this bill out of the normal procedures of a private member's motion. Why would the Premier do this? It is obvious that he is using these barn-storming tactics because they give him a much better chance of success in getting the legislation through by moving in haste at this early stage of the life of the new Parliament.

It reminds me of the lawyer's tactic that is legitimately, but nevertheless reprehensibly, used in the court system, of exerting undue pressure on an inexperienced, uncertain or unsure witness who may well be speaking the complete truth, but who can be browbeaten into a series of statements that will look bad in the eyes of a jury or judge. A similar tactic is to produce an expert witness and to examine him in such a manner that, because of his expert knowledge and competence in the subject on which he is being questioned, he can give the impression of complete credibility. That is the tactic the Premier has used here, for this is an unusual situation. There are a large number of new members, many of whom have not yet had the opportunity to assess the view of their electorates on many issues, this bill being one of them. By using the tactics I have described the Premier has made certain that the new members will not have an opportunity to feel the weight of opinion of their electorates. In the past the Premier has used a colourful phrase about applying the blowtorch to a member's belly. He is not willing to allow the blowtorch on this issue to be applied to his own belly or to the belly of any of the new members; they will not be allowed to feel the heat of electoral opinion. The Premier knows that if that were to happen, his chance of pushing this legislation through would be substantially reduced. Prior to the recent State elections the Premier did not make this an issue. He did not go to the people when making his policy speech and tell them that he would be introducing this legislation as a private member's bill.

Mr Cavalier: He is moving the bill not as Premier but as member for Bass Hill.

Mr ROZZOLI: He is moving the bill as a private member but using the full powers and benefits of his position as Premer. If he had indicated to the electorate at the time of the election that he intended to make this move so early in the life of this Parliament, it may well have had a different effect on the election. It would have placed the question very much more clearly in the minds of the electors, and therefore governed their questioning of those who stood at that election and who wished to represent them. The other matter that is reprehensible on the part of the Premier—and he may care to disabuse honourable members of this if it is a fallacy—is dealt with in the report in the *Sydney Morning Herald* of 11th May, suggesting that the Premier exerted considerable pressure on his fellow Ministers to give him block support for the passage of this legislation. It may be said by the Ministers concerned that they have decided on their own conscience to support the bill in its entirety. but looking at the history of voting on this type of legislation in this Parliament, I doubt whether that is the case.

I believe that the *Sydney Morning Herald* correctly recorded what happened—namely, that the Premier did not wish to be seen to promote a private member's bill that was in danger of defeat. Therefore, I suggest he sought and obtained the support of all his Ministers. That places the matter somewhat beyond the concept of a conscience vote—a vote that has been traditional on this type of issue not only in this Parliament but in every Australian Parliament. I return to my own concept of the bill. I do not wish to dwell on this matter to any great extent, for my position has been canvassed by other honourable members in this debate, and I do not wish to waste Parliament's time in covering earlier ground. I support the point of view that a homosexual act is unnatural. I believe it is against the laws of nature and should be against the laws of man. I believe that the lessons of history indicate that the encouragement of homosexual behaviour is against the interests of the community.

Mr Petersen: The Greeks managed to last for a thousand years.

Mr ROZZOLI: The honourable member for Illawarra's intervention brings me to my next point. Those who subscribe to the point of view that I have just put forward probably have a different interpretation of what history has to teach to those who reject that point of view. The honourable member for Illawarra and others who take his viewpoint tend to take a short term view of the lessons of history. It must be realized that if a change is brought about in a community by giving the imprimatur of respectability, correctness or validity, or whatever word one chooses, to this sort of behaviour, that change will not be dramatic. Therefore, the introduction of this bill in New South Wales, or in the other Australian States, will not have a major effect overnight on the community. Of course it will not, but the lessons to be learnt from the past are that, inevitably, the deterioration of society is present; it is slow and inevitable. We, as legislators representing the community, have a moral responsibility to protect the community. It is not acceptable to the majority of the people of New South Wales, and certainly it is not acceptable to me, that this House should pass legislation to give the imprimatur of correctness and validity to this type of behaviour.

I am aware that honourable members have pointed to anomalies in existing legislation. However, I agree with the honourable member for Bathurst, who said that other means exist to correct anomalies—means other than those the House is seeking to adopt tonight. Lest the homosexual community believes it is being discriminated against in a fashion that is so terrible to them, I suggest there are other sections of the community who are being discriminated against. I refer for example to the disabled who, in many instances, because of their disabilities, suffer far greater discrimination than do homosexuals. Although disabled persons do not suffer the possibility of being gaoled for what they are, they often experience a more telling, dramatic and harmful imprisonment brought about by the intractable attitude of many people in our community. The community is as yet far from embracing the degree of tolerance that is necessary to free many of the disabled from the harsh discriminations they suffer every day. If Parliament tonight were discussing that issue and moving to eliminate discrimination against disabled persons in a much more effective fashion than by the tokenistic gestures we have experienced to date, I would be a much happier person than I am.

I conclude by dealing with the subject of enforcement and the argument that this bill should be passed through Parliament because current penalties are not being implemented and the present law not being prosecuted. If that were the case, and people who were the subject of penalties believed that to be so I am sure the matter could not be considered as urgent. I understand it is urgent to those people because they feel the weight of the effect of the legislation remaining on the statute books. They feel that the legislation is a barrier to their conduct involving their way of life as

they would like it to be seen by the majority of the community. If that is the only reason why the current legislation should remain on the statute books, to me that is a sufficient reason. As I made clear in my speech, I cannot accept the fact that the main thrust of this legislation is to bring about a degree of respectability, correctness and validity to this behaviour—behaviour which I find unacceptable, as do the majority of people in New South Wales. Lest I be wrong, I am willing to have the question put to a referendum. I hope that the members of this Parliament will support my amendment, which seeks to allow for the passage of a referendum which will allow the matter to be decided once and for all.

Dr REFSHAUGE (Marrickville) [8.20]: I support the bill. I do not support it wholeheartedly, for I feel that the benefits of the bill should not be restricted to persons above the age of eighteen. I believe homosexuality should be on a par with heterosexuality, and that the age of consent should not differ between the two. A lot has been said about the silent majority, and I wonder how we hear them. Everyone who has spoken so far seems to have heard different things. Perhaps a bionic ear trumpet is required in order that one might hear what the silent majority is talking about. However, as other speakers have said what they have gleaned from their electorates, perhaps the experience I have had in my electorate is worthy of mention. Apart from the normal roneoed correspondence that every member has received, I received twelve letters, twelve phone calls and four deputations. Of the twelve letters, eight asked me to consider voting against the bill and four asked me to vote for it. Half of the phone calls asked me to vote for the bill and, of course, the other half asked me to vote against it.

I asked all of those who wished me to vote against the bill for their reasons. I did not believe I would be able to ascertain further reasons from those who believed homosexuality was against their concept of God. Though I asked, I did not receive any further reasons. However, those persons who felt that homosexuality was unnatural were certainly prepared to listen and debate with me, and eventually they changed their minds and agreed that perhaps what they determined to be unnatural could be more properly described as unusual.

Homosexuality is within the range of normality of sexual relationships. All reputable medical organizations see homosexuality as not being an illness and not being a deviance. They see it as an unusual or a less common form within the range of normality. I refer not only to the Australian Medical Association but also to the Royal Australian and New Zealand College of Psychiatrists and many other psychiatric and medical organizations throughout the world. Despite the attitude of the honourable member for The Hills towards the World Health Organization, that organization also does not see homosexuality as an illness.

If it is not an illness or a deviance, how can it be unnatural? It is perhaps not the most common form of sexual relationship, it is perhaps not the most usual form of sexual relationship, but it is certainly within the range of normality. Why should people who behave within the range of human normality be persecuted? What gives society the right to determine what type of relationships should be indulged in between consenting mature adults? It is not the role of this Government or this Parliament to make such decisions, which would include, at present, putting people into gaol for having a sexual relationship, or in fact any relationship, which is within the range of normality and is conducted in a consenting atmosphere.

During their development, most boys indulge in some form of homosexual relationship. That is probably the most normal and natural aspect of the sexual development of young boys. Most young girls also go through some form of homosexual relationship. That does not mean they will necessarily become dominantly

or predominantly homosexual. It does not mean that they are unnatural. It certainly does not mean we should penalize them and put them into child institutions. If that were the case, I would be surprised if many of the honourable members in this House had not spent time in institutions, because of their behaviour during their school days.

It is important for honourable members to realize, as the Premier pointed out in his second reading speech, that a compromise has been reached for the bill to pass through this Parliament. The bill creates a differential as to the age of consent between homosexual males or homosexual females, and heterosexual couples. The bill proposes that the age of consent for homosexual males should be eighteen. I do not agree with that provision but I agree with the Premier's assessment of reality that this Parliament would not at this time pass a bill that contained an age of consent of sixteen. However, I hope it will not be too long before we are rid of this form of discrimination.

Mrs FOOT (Vaucluse), Deputy Leader of the Opposition [8.25]: I support this bill which has been introduced by the Premier as a private member's bill. In the Forty-seventh Parliament bills relating to homosexual offences were introduced by Mr Petersen in November 1981, by Mr Egan in December 1981, and by the Hon. B. J. Unsworth in March 1982. Each of those bills foundered on the issue of the age of consent being sixteen years of age. In consultation with many groups and, obviously, his colleagues, the Premier realized that the passage of this bill would founder tonight if the age of consent of sixteen was retained. It is important to point out that South Australia, Victoria, the Australian Capital Territory and the Northern Territory all have legislation allowing homosexual acts between consenting male adults in private, although the age of consent varies. A Labor Government in Western Australia recently brought forward a bill that failed. No doubt, like this Parliament, Western Australia will re-introduce it. In many northern European countries, laws relating to homosexuality were repealed before the French Revolution. The law was reformed in Great Britain in 1967, where the age of consent for males was as high as 21.

I wish to commend Mr John Marsden, President of the Council for Civil Liberties. I believe that his strong words at the 21st birthday of the council acted as a catalyst to induce the Premier to introduce this legislation very early in this Forty-eighth Parliament as a private member's bill. Nobody has better summarized the anomalies which exist under the present laws relating to homosexual behaviour than the Hon. Mr Justice Michael Kirby, Chairman of the Australian Law Reform Commission. In an address entitled Sexual Orientation and Federal Law Reform, delivered to the gay business association in February 1983, Mr Justice Kirby said:

> It is a criminal offence for a male person to perform certain homosexual acts. Yet it is not and never has been an offence for a female person to perform homosexual acts. A person can be sent to prison and be criminally stigmatized for pursuing his sexual orientation. Yet despite this denunciation in the criminal law, other persons, including most employers, may not discriminate on the grounds of a person's sexual preference. Because of reform of rape laws, it is in some cases more serious to perform consensual indecent acts with a male person than it is to perform an act of rape itself.

That is a clear summary of the messy laws on homosexuality in this State. If this measure is passed tonight in this House, and subsequently in the Legislative Council, we will have gone a long way to homosexual reform. I agree with the Attorney General that compassion is most important in this issue. I represent an electorate in the inner eastern suburbs of Sydney, which, although it does not have as many gay constituents as the electorate of Bligh, has quite a number of them. I have handled many representations from persons who have been stigmatized because of their

sexual proclivity in adulthood. I think I can speak with some authority and some knowledge of the issue. I do not doubt that many other areas do not have as many vocal homosexuals. I do not doubt that other honourable members are representing the conscience of their electorate, but I feel I can speak with certain knowledge on this matter. Having lived always in the eastern suburbs I have witnessed the real trauma suffered by adult males who have tried to conceal and disguise their proclivity because of the social stigma that relates to it. I do not believe one can do better than to quote Lord Goddard's statement to put the matter in perspective. He said:

> We must draw distinction between conduct which may be held by some to be sinful and conduct which ought to be held by the State to be criminal.

I also recognize the necessity for the existence of gay lobby groups to press for homosexual law reform, but I do not endorse proposals of the more radical homosexual organizations that assert a right to disseminate information and to have the teaching of homosexuality and heterosexuality put on an equal footing in the schools of this State. I was reassured at question time today to hear the Minister for Education give an undertaking that proselytizing for a homosexual lifestyle would not be permitted in the schools of New South Wales after the passage of this bill.

I should like to conclude my very few words on the bill, having been the eleventh member to speak to it this evening, by saying that I have long been aware of social pressures, police harassment and unfair blackmail as well as housing difficulties which have been suffered by homosexuals in New South Wales. It is quite possible for the Judeo–Christian ethic, which is the prevailing ethic of Australian society, to exist with the passage of this bill. I cannot agree with honourable members who say that it will be destroyed by the passage of these measures. Though I respect their views, I cannot agree with them. Therefore, I will vote for the repeal of provisions for homosexual acts in private between consenting adult males over the age of 18 being subject to criminal sanctions.

Mr NEILLY (Cessnock) [8.34]: I wish to talk more about the bill than to express support for it. To be quite frank, if I had to deal with it strictly on the basis of reflecting the wish of voters in my area I should have no course but to vote against it for there is no support forthcoming; nor has there been on the other occasions when similar measures have been before the House. On two occasions I have received a card seeking my support for legislation that had been proposed. On both occasions the envelopes were postmarked Sydney. One person who sent the card was a former constituent, and the other is still on the electoral rolls in the Cessnock area. I have had quite a number of represenations from church groups in my electorate. They are much concerned about the legalization of homosexuality or the decriminalizaton of it. I have received quite some mail in my Sydney electoral office from people resident in Sydney. I do not doubt statistics that show I have homosexuals in my electorate.

I do not doubt that homosexuality has existed for a long time, and will continue to exist in the future, but I have some doubts about the timing of the bill. The Deputy Leader of the Opposition said that the early introduction of the bill was perhaps wise. Politically, it may be wise, because it gives voters four years to forget. The bill has another hallmark associated with it; that is, if the bill is passed it will enable a further private members' bill to be introduced before the expiration of the parliamentary term, with a view to easing things further. One other aspect of timing concerns me greatly. It is that this Parliament has a select committee looking into prostitution. I believe that the bill before the House has much to do with many aspects that that committee is considering, for I have no doubt that many homosexuals gravitate towards Sydney, which is regarded as the home of many New South Wales homosexuals. I firmly believe that some who are called homosexuals are not bona fide homosexuals; they are young people who have drug problems and are seeking

money to assist them in that respect. That is why I believe the Select Committee upon Prostitution should examine the aspect of homosexuals living in Sydney, and make recommendations on that matter.

[*Interruption from gallery*]

Mr DEPUTY-SPEAKER: Order!

Mr NEILLY: It should not concern honourable members what other parliaments are doing. We should act on our own intuition and initiative. This House will have before it soon the Annual Reports Bill. Under the Westminster system governments have freed themselves of some responsibilities and passed them on to statutory authorities. After the expiration of sixty or seventy years it has been discovered that the statutory authorities control more of government than does the government. Therefore it has become necessary to introduce an Annual Reports Bill, as has happened elsewhere in Australia under the Westminster system, in order to try to redress what has happened. Therefore I say this Parliament should take no account of what happens elsewhere.

Another aspect concerns me, and that relates to the provision about homosexual acts in private. My electorate has many problems with incidents that occur in public. Under the Offences in Public Places Act many people with problems cannot be assisted by the law, for what happens in their yards is considered to be private. I hope that when matters under the proposed laws come before courts a more stringent attitude is taken towards those laws than is being adopted under the Offences in Public Places Act. For many of the reasons I outlined earlier, I am concerned also about soliciting. I note that the honourable member for Hurstville has foreshadowed an amendment to the bill, and I think it worthy of thought. I have read the booklet "Homosexual Law Reform" put out by the gay rights lobby. Towards the end of that booklet, which deals with English legislation, there is a comment attributed to a man called Walmsley who is reported to have said:

> This was not however merely a decision that certain acts in private, previously illegal, should cease to be so, but also meant or implied that Parliament had decided that homosexual acts in public should continue to be unlawful. Thus it may well be that the 1967 Act, by re-affirming this aspect of the law, provided the police with an up-to-date basis on which action could more confidently be taken against those involved in homosexual acts in public.

That statement relates to the fact that after the introduction of legislation in England, prosecutions for indecency and other offences trebled. One other aspect is worthy of consideration also. If honourable members are to introduce legislation such as is before the House, they should consider the ramifications of it for the day-to-day living of those concerned, in this case the homosexuals. In that respect I refer to the *Sydney Morning Herald* of 15th August, 1983, to an article headed "Homosexual study shows widespread drug use and prostitution". The article relates to a study or survey undertaken with funding from the New South Wales Drug and Alcohol Authority. The survey is named "Young and Gay—a Study of Gay Youth in Sydney". Of those interviewed in the survey, one-quarter were involved in prostitution, and three-quarters of that number said they did so for reasons of economic survival. Admittedly the sample was fairly small; I think only 441 persons were studied. Mr Garry Bennett, research co-ordinator for the study, said he was surprised by many of the survey's findings. He said:

> I would not have picked the very high levels of prostitution, I would not have picked the very high levels of unemployment and I would not have picked the very high levels of drug and alcohol abuse—they are the most obvious things that really stand out in the whole report.

That report cited three main avenues for the solution to the problem facing young homosexuals in Sydney. These are community education and other programmes to bring about an improvement in social attitudes and knowledge. Direct services to young people and to the homosexual community to help the young homosexuals cope with their problems are also needed. If homosexual acts in private are to be decriminalized honourable members should also look at what should be done for the people concerned. Will we do anything to assist them, or will we just leave it at decriminalization? I am an Anglican, I have received correspondence from the Bishop of Newcastle. The Anglican Synod in Newcastle has dealt with the issue at length. In 1980–81 the Synod at Newcastle considered the issue. The findings of the Newcastle Synod are contrary to those of its counterparts in Sydney. The final resolution from the Synod reads:

> Notwithstanding the above recommendation which applied to the life of the church and to proper Christian attitudes as we currently understand them, this Synod strongly affirms suitable legislation should be passed in the Parliament of New South Wales which would enable the decriminalization of homosexual behaviour in private between consenting adults.

I am not particularly fussed about the situation; I accept homosexuality as a fact of life. Anyone who does not is only kidding himself. I caution that tolerance is a state of mind. Whatever is written on a piece of paper does not count for much when it comes to tolerance.

Mr PICKARD (Hornsby) [8.44]: I oppose the bill on the basis of a conscience vote. I have heard only one member really speak about the conscience issue of the act of homosexuality. When the honourable member for Marrickville spoke in the debate earlier this evening he said that he did not see homosexuality as an immoral act or unnatural and therefore he would be seeking further amendments until all laws applying to this act and this lifestyle are removed. I take the opposite point of view, that the act is immoral. Like so many other people, I have seen the terrible devastation that has taken place in the lives of some individuals. Some young people have in fact taken their own lives. The fact that these terrible and horrible things have happened has not altered for me the fact that the deed is wrong, immoral, and unnatural. Many people would expect that, because I hold this point of view on the basis of Christian morality, I would therefore support what I am saying by referring to the scriptures. Much of the teaching of the church and of people who are Christians inside and outside the structured church is found in the Bible. In the first chapter of the Book of Romans, reading from verse twenty-one this appears:

> For although they knew God, they neither glorified him as God nor gave thanks to him, but their thinking became futile and their foolish hearts were darkened. Although they claimed to be wise, they became fools and exchanged the glory of the immortal God for images made to look like mortal man and birds and animals and reptiles.
>
> Therefore God gave them over in the sinful desires of their hearts to sexual impurity for the degrading of their bodies with one another. They exchanged the truth of God for a lie, and worshipped and served created things rather than the Creator—who is forever praised. Amen.
>
> Because of this, God gave them over to shameful lusts. Even their women exchanged natural relations for unnatural ones. In the same way the men also abandoned natural relations with women and were inflamed with lust for one another. Men committed indecent acts with other men, and received in themselves the due penalty for their perversion.

Traditionally this nation has based its laws and its social structures on the Westminster system. Australia is part of that heritage. Australians may deny it; they may fight against it; they may want it changed, but until it is changed and until the laws are altered we are wrongly headed in doing anything that does not conform with the Westminster system of government. There is no such thing as an act that has no social implication. That is not possible. It has been established by all sorts of people of credit who have conducted studies in these areas, that even when a person engages in masturbation it is always a sort of social fantasy. It is not an act in isolation. The acts of men or women, either in society or alone, do not just stop there. They begin to condition the philosophies, the reactions and the relationships of people with others. One cannot talk of relationships without talking of society and the social effects.

We all have a responsibility within our social framework not to seek for *laissez-faire,* but for true liberty based upon a social discipline. In five debates in this House I have heard the concept of punishment argued. It was never stated that if a person believes a deed to be totally wrong, immoral and improper—whether one likes it or not—with all forms of social implications, detrimental and otherwise, then nought can be done but to oppose any changes that would have a deleterious effect on society and a breaking down of the concept of the image of God within an individual. One eminent Catholic theologian who spoke about the *image deo,* the image of God within man, said that there could be no other conclusion to draw than that it is a crime against God, against man, and against the natural law. When one tries to make the punishment fit the crime, one often has to reduce oneself to the Mikado level as portrayed in Gilbert and Sullivan. There is no way that we can apply the law consistently to all crime. However, we can deal with the law in its relationship to one crime, if it is considered that the law is harsh and improper.

The issue of acts in private that was raised by the honourable member for Cessnock brought forth laughter from some members, but it remains unanswered. I have not heard a definition from the Premier. I wondered what the Premier meant by the terms private or privacy. In a previous debate in this House members heard some fascinating definitions of those terms and were startled by what was said would happen if the measures were passed in the form presented. The bill now before the House does not even give any parameters of that term. If it is a term in the dictionary, why has not the dictionary definition been given?

I have sat through debates on similar bills in this House when an attempt has been made to change the law and to legalize homosexual acts. Those measures have been defeated on three occasions, and an immediate attempt was made to reintroduce a similar measure. The Parliament has shown that it is unable to draw a conclusion from the debate on those previous bills and to settle for the way the House voted. The people of this State should be able to trust a decision made by this Parliament. Once again this House is debating a bill which the people of the electorate of the honourable member for Hawkesbury, my electorate, the electorate of the honourable member for Cessnock—and apparently the honourable member for Marrickville—have overwhelmingly said that they do not support. I have had thousands of signatures from constituents as have many other members, on petitions that have been presented to this House. I have checked to see that no bogus names have been presented, as sometimes does happen. I have taken the trouble to talk to people who are not committed to any particular church, and I have been told the act of homosexuality is immoral and unnatural. The majority of people are not pushing for the bill to be passed. The vast majority of people are fed up with this Parliament's inability to accept its own decision on three occasions. People have said to me that the citizens of New South Wales should have a conscience vote to state their views on this issue. They have asked that there be a referendum and that this bill not be pushed through the Parliament. However, supporters of the bill have said that it

must be passed through Parliament, otherwise it would seem as though members of Parliament were running away from their duties. I believe that the opposite is the real position.

Members on both sides of this Parliament have previously stated their views, attitudes and values. On three occasions measures of this type have been rejected. The vote was lost by those who wanted change. The majority of members voted for the law to be maintained in its present form. The people of New South Wales have a right to have a refrendum held on this issue. Minority pressure groups that constantly put pressure upon politicians should not have the right to have the law changed. It is not the right of an individual of this State or a Government supporter to bring pressure to bear upon his colleagues, for whatever reason, on a matter of conscience. The people of the State say that it is time they made the decision in this matter. If this matter were put to the vote, once and for all the people's voice would be clearly and firmly heard. Members of this Parliament would know then that there was no possibility of ever saying again that the people want a bill of this type. However, their voice may be ignored again. If the honourable member for Bass Hill—the Premier—is so sure that the people of this State want the introduction of this bill and that the time is ripe, why was it not ripe on 23rd March. Why was the time right when the Premier arrived back in Australia from Germany and France? What made the time right then? What made it right after the Premier had spoken previously? Following the third occasion that the bill was introduced the Premier should have said that that was the end of such measures. Similar legislation has once again come before this House. All members must, from the system of values and beliefs they have, vote on the bill with conscience once more. I should hope members of this Parliament have enough sense now to say that they will lay this bill aside for six months and proceed to a referendum of the people.

Mr Walker: The good Lord will assist us.

Mr PICKARD: I have already stated that. I made that clear. If this is a cause for flippancy and for denigrating a man's belief, the Minister has that privilege.

Mr Petersen: You heard what the Leader of the National Party said to the Premier.

Mr DEPUTY-SPEAKER: Order! Members must not interject.

Mr PICKARD: I never denigrate a man's beliefs. Honourable members are debating a matter of importance, based upon their right to hold a view. It should not be an opportunity for bringing to bear an inverted type of McCarthyism by either side. I have heard and know of some despicable things that were said about and done to a man who has said he will be voting for the bill. I would not in any circumstances support action of that type, or any form of coercion that does not allow the rightful use of the conscience based upon a member's belief. It is naive, stupid and dangerous in the extreme. I support the amendment and hope it will succeed.

Mr PAGE (Waverley) [9.2]: I support the bill in the hope that today this House will at last accept its responsibility to repeal unjust and discriminatory laws and provide a degree of relief to a substantial number of members of the community who have been victims for many years. Some of the laws that the bill will repeal are hangovers from the days of the medieval Inquisition, a body which burned homosexual men at the stake. Most of us have come a long way since then. Some of the laws that the bill will repeal are only about thirty years old. They were enacted in response to the McCarthyite campaign in the United States of America against homosexuals and others. It is to the shame of this Parliament that when the Wolfenden committee in England started to ask whether the law should be repealed, this Parliament went

in the opposite direction. When Wolfenden and others—notably Professor Hart, then Professor of Jurisprudence of Oxford University—took up the position of John Stuart Mill, this State introduced laws that were nothing short of medieval. Mill stated, in a famous sentence which must be a fundamental principle of any liberal or social democratic society:

> The only purpose for which power can rightfully be exercised over any member of a civilized community against his will is to prevent harm to others.

Such thinking did not reach the legislature of this State in the 1950's. Here, rather than considering repeal, the legisature introduced new laws. One of the laws that the bill will repeal was introduced, according to the Attorney General at the time, because the manager of one of Sydney's largest and most fashionable hotels did not like homosexual men drinking in his hotel, but the police could do nothing because they were not committing any offence so an offence was duly created. Today this Parliament has the opportunity to eradicate such ridiculous laws, to return to the proper principles upon which laws should be based, and to direct police and court attention to dealing with issues—that is, crimes that are properly the concern of the community. Members need to be clear about the issue that is before them. It is the law: the criminal law, which provides for all male homosexual acts in this State penalties ranging from two years to fourteen years' imprisonment. As members are aware, some of those sexual acts when consent is present carry twice the penalty for rape—for the same act without consent.

There are some opponents of the reform who seem to think that the criminal law is some sort of rhetorical flourish, like a Sunday school lecture rather than being law. Members will have noted with surprise that some prominent clergymen have opposed the repeal of these anti-homosexual laws, using the argument that they are not or are virtually never enforced and therefore they should stay on the statute books. There is no place in the law for laws that are not enforced and that it appears not even the most rabid anti-homosexual group want enforced. I put a question to this House and to those members who are opposed to this reform: Do they really believe that this law should be enforced? Do they really believe that those in the community who are homosexual, many of whom have openly admitted to being gay and breaking the law, should be arrested, charged, convicted, and sentenced to prison under these laws? Of course they do not; nor do the various churches and other opponents of this modern reform bill believe that this law should be used.

What is a law that no one wants enforced? It is a farce. Because of that it should go; it should be repealed. What members of this Parliament must realize is that in certain cases these laws are enforced and there are more cases than members may realize. The New South Wales Bureau of Crime Statistics and Research made a study some years ago of the prosecutions for homosexual offences in this State. In one year it was found that 117 men had been charged with sexual acts for which there was no heterosexual or lesbian offence. According to the bureau, that figure was towards the lower end of the range of prosecutions over recent years. The bureau found that the level of such prosecutions varied according to the enthusiasm of the police at the time in pursuing homosexual men and prosecuting them. What is the nature of the cases that came to the attention of the police and the courts? I shall give the House details of a number of real cases that the Bureau discovered in its study as an example of how unjust and unfair our laws are.

In one case the police had a house under surveillance, believing that it might be used for drug dealing. When a man left the premises the police stopped him, thinking he may have purchased drugs and that they could arrest him and get evidence against the others. When he realised what was going on he denied the allegations, and in

fact he had no drugs. In order to explain why he had been there, he told the police the truth; he had been visiting his male lover. The police then charged him with a homosexual offence. The evidence was solely his own admission. He was convicted. Another case concerned two boys, eleven and thirteen years old, in a country town. Police were inquiring about shoplifting and in the process of questioning the two about their movements they were told that the boys had been under a railway bridge on the edge of town—no, not in connection with shoplifting; they had been playing with each other. So the police charged each of them with indecently assaulting the other and they were convicted. Certainly the trauma that they suffered did not help them in later life.

In a further case a couple of years later a man sought the help of police to get the address of a man he had met when he was visiting the city. He had left some property in the man's car and had only the car's registration number. When he told the police where they had met, the police recognized that this was a gay bar. After investigation they gained an admission that the two had had sex and they were both prosecuted. A list of such cases could go on and on, each an accident in some way or another, each a picture of waste of police and court time, each an example of senseless prosecution of an individual for no good purpose. But this is the reality of our laws. The law means—as laws should mean—police, arrests, hours in police stations, the humiliation, the cost of trials and the consequent fines or imprisonment and carrying a criminal record for life. One case of these consequences was uncovered by the Anti-Discrimination Board in its research on discrimination against homosexuals. It was found that a man some twenty years ago had been convicted of a consenting sexual act with another adult male and as a result had been repeatedly refused a bus driver's licence. The logic of such actions is impossible to fathom, but the facts are unavoidable.

Whatever the views of members on the morality of homosexuality—and they will vary greatly—I say to this Parliament that it is time we recognized that the criminal law is not the place to make such statements about morality, unless we really mean that law to have its full force and to be enforced by the police, unless we hold that the sorts of prosecutions and cases I have cited are prosecutions of which we all approve. I am sure that no members of this House would approve of those prosecutions—and if we do not approve, then we must repeal the laws which make those prosecutions possible. The existence of these laws has another consequence which this Parliament must recognize and respond to. I am not referring to all the red herrings which opponents of law reform persistently refer to to take attention away from discussion of the law. Those I shall mention briefly later. What I am concerned about is what is widely known as one of Australia's national sports—namely, poofter bashing. As a direct consequence of these laws, homosexual men are repeatedly victims of violence and robbery. The reason is simple and obvious. To report to police the circumstances of the robbery or bashing is likely to reveal the victim's homosexuality and a possible offence against the Crimes Act and thus lay the homosexual victim open to a charge under these laws for sexual acts.

The problem is not a minor one. The Anti-Discrimination Board's report on discrimination against homosexuals documents extensively the incidence of such violence; as did the report of the Royal Commission into Homosexuality established by the Western Australian Parliament in 1973 and many other reports. In its extreme form, poofter bashing results in murder. Some fifty cases of such murders have been recorded in Australia over the last decade. The most famous was the murder of Dr Duncan in South Australia in 1972, but others have been publicized in Sydney in the last few years. A persistent pattern in such cases is a plea of provocation—that the other person was homosexual, and therefore that the violence was justifiable. In one murder trial concerning a man who had been killed by being hit over the head with a wine flagon, the judge accepted provocation as a plea, reduced the charge to

manslaughter, and gave the attacker a sentence of three years with a one year non-parole period. When the courts accept such pleas of provocation, it is no wonder that gangs of youth regard the law as virtually declaring open season on homosexuals.

The flagrant nature of such poofter bashing can be readily seen from a recent series of programmes on 2GB's "Newsfront" series about homosexuality. In one, several youths openly boasted about their regular poofter bashing activities, the way in which entrapment was used to lure a victim who was then bashed and robbed. It was clear that the bashers regarded the law as condoning their activity, and that the illegal status of homosexual acts granted them virtual immunity from prosecution. Perhaps the most direct example of this notion occurred outside a gay dance in Sydney. A gang of local youths turned up with lumps of wood and other weapons to attack patrons. The police were called and stopped the attacks and arrested several of the bashers. When arrested they protested loudly, "They are poofters," they said, "they are illegal; why don't you arrest them?" Fortunately, on that occasion the police did not take their advice. In fact, on quite a few occasions the police have acted sensibly and ignored the possibility of making a homosexual prosecution and concentrated on dealing with the real crimes of violence and robbery. But in other cases police have tried to prosecute the victim rather than his assailant. For gay men the problem is very real. Do they take the risk of reporting the offence against them, do they know how the police will react, and is it fair to blame the police for enforcing the law if it is there when allegations of offences come to their notice?

Inevitably, the result is that most incidents of poofter bashing are not reported; the real criminals go free. The law in a very real sense protects them and makes victims of the homosexuals. I stress this point because opponents of law reform, those who want to retain these anti-homosexual laws in the Crimes Act, never mention this serious issue. Sometimes they even seem to condone it. I find it remarkable and appalling that those who lecture us on the alleged evils of such a reform, who mouth statements about morality and supposedly good values and social concerns, in all cases show a total indifference to the real evils that occur as a result of these laws. It seems they either do not care or do not want to know. I emphasize that what we are debating today is what offences we hold should be in the statute books and what prosecutions should occur: that is the issue before us.

The result of this reform will be limited to just the two points that I have made. First, a substantial number of men who have been prosecuted in the past will no longer be subject to prosecution. Perhaps one hundred men each year will no longer be subject to the indignity, the injustice and the personal torment of arrest, trial and sentence. The prosecutions that have occurred cannot be defended by any right-thinking person. Second, we shall be making a substantial contribution to the reduction of a real and prevalent social problem in our society: poofter bashing. If we fail to repeal these laws we shall be saying to those elements in our community who take their hostility towards homosexuals to the point of violence that we condone their activity, that we condone violence even to the act of murder, that we condone robbery, that we do not care that homosexual men are repeatedly victims of crime in New South Wales. That, and that alone, is what this debate is about. Those two points and those alone will be the consequences of our actions today if we repeal these objectionable laws; if we accept the challenge to bring the law into line with late twentieth century thinking, if we act to achieve a more liberal and just society.

In past debates on homosexual law reform—on the bill which my colleague the honourable member for Illawarra, George Petersen, introduced in 1981, and the other bills which have come before us—much was said about various issues, about medical and religious views, and almost every other issue that occurred to members.

From those who opposed the bill those issues concerned everything except the matter before us. I do not intend to canvass those issues in this debate, nor to refute them however wrong many of them are. I shall not dignify those arguments by repeating them today. Members will be thoroughly familiar with them from three years ago, from the statements in the media over the last two weeks, and from the literature and letters that have been organized to oppose this bill. Because it is not necessary to deal with them as arguments, the answer to each and every one of those objections is as follows. What this bill proposes, in essence, is to do what the Victorian Parliament—a Liberal Parliament—did in 1980, to do what the South Australian Parliament did in 1975—now nine years ago—to do what has been done in every country in Western Europe, except two. Much of Western Europe scrapped these laws over one hundred and fifty years ago when they adopted the Napoleonic Code. Half of the States of the United States of America have done the same, along with virtually every liberal democracy in the world and all of the Eastern European countries, except the Soviet Union.

If there are adverse consequences from homosexual law reform I ask simply, where is the evidence? The answer is that it does not exist, not in any shape or form. It should be noted that not once at any stage in the debate on homosexual law reform over the last three years in New South Wales have any of the opponents even claimed to have such evidence. In the debate in 1981, the challenge to those people to produce such evidence was issued. It has been ignored as it has been ignored in this debate. Of course, it has been ignored because it cannot be answered. They know that, and we all know that. Not once, anywhere, has anyone ever claimed that adverse consequences have flowed from homosexual law reform. As elsewhere, so it will be in New South Wales. I submit that only good will come from this overdue but welcome reform. Undoubtedly, we shall again be treated to a string of dire predictions, but they will be nothing more than hollow assertions as untrue and absurd as the belief held by the Roman emperor Justinian, who believed that homosexuality caused earthquakes—as the National Party still does. Even today, such superstitious nonsense still exists in some people's minds. The House may remember that after the law was reformed in South Australia, a religious fanatic there claimed to have a vision that Adelaide would be swamped by a tidal wave in January 1975 as a divine act to punish it for repeal. On the appointed day many Adelaide citizens took the day off work and had picnics in the Adelaide Hills to obtain a better view. The Premier, Don Dunstan, went to the beach and from the end of the Glenelg Pier read poetry to the waves and soothed them. Adelaide remained dry and safe. The fate of the failed clairvoyant, however, was not quite as happy. He left his allegedly godless city and moved to Warwick in Queensland, safe in the belief that in that more reactionary State such things would not happen. Two days after his arrival at Warwick, the river flooded the town. Such is the fate of such fantasies.

Ludicrous though that prediction was, it is no more outrageous or at least no better based in fact than the other predictions of doom and destruction that have been and will be made in opposition to this bill. I bring the attention of members back to the point that I made—it has not happened anywhere else, it will not happen here. I commend the Premier for introducing this measure and putting his weight behind it. I also commend the Leader of the Opposition for his support. Previous attempts at homosexual law reform failed because they did not have the active backing of the party leaders and in particular because the Liberal Party tried to make party political capital out of them. I compliment the Hon. Barrie Unsworth on seeking to implement change in 1982. However, I particularly want to record the role of the honourable member for Illawarra, George Petersen, in raising this issue in the Parliament in 1981 and setting in train the process which I hope will result today in a substantial degree of reform by this Parliament.

As the Premier said, it is a moderate reform. It does not solve all of the problems caused by the provisions of the Crimes Act dealing with homosexual behaviour. It will not solve all the problems faced by the gay community, by the homosexual members of our community. It will, I believe, remove a substantial injustice from the law. It will end much unjust and unjustifiable prosecution. It will help to reduce the problem of poofter-bashing. It will bring us into line with other liberal democracies and leave the persecution of homosexuals to those regimes, the authoritarian regimes of the left and the right, whose policies in this as in other areas we find abhorrent. If we believe in freedom for the individual, in an egalitarian society, in freedom of conscience and the rights of individuals to control their own lives, we have no choice today but to support the bill and remove these anachronisms from the law. I support the bill.

Mr DOWD (Lane Cove) [9.23]: I think probably one of the saddest things about the public debate in this area is that many people who call themselves Christians can be so unchristian in the way they attack this issue and attack those members who are concerned with this issue. It is now seven years since I placed on the notice paper of this Parliament a motion for reform of laws relating to homosexuals. My position has not changed in that time. I considered it was the obligation of Parliament to accept that what adults do between themselves in private is no concern of the State and no concern of anybody else. The function of our community and of our laws is to protect those who are unable to protect themselves. I was brought up in a society where the law interfered with what happened between a man and a woman. The law interfered with what a husband and wife did together. How absolutely absurd that the State should be in their private homes telling them what they should do together. Of course, this bill deals with relationships between females and males as well as between males. What right have I as a parliamentarian to say to my brothers, "You will adopt my lifestyle"?

Christianity has been used in many of the arguments put to me as to why this law is wrong. People have said, "Do you know your Bible?", and "This is sinful and wicked." It was Jesus Christ himself who said to the woman caught in adultery, after he said, "Let him who is without sin first cast a stone" and they all went away, "Where is your accuser?". To some of the hypocrites who have written to me saying, "This is God's law and you must enforce God's law", I say, "What about laws on adultery?" They say, "We will start on that ourselves". I heard that seven years ago. Some so-called Christians ought to remember that Christ said, "Let him who is without sin first cast a stone," because Christians are very selective about what they want to enforce. I remember a custody case I had, in which the mother was a lesbian. I could not get custody of the children for the father. I could not prove anything. If it had been the other way round I could have. What right have we as a society to sit down and say that of those people who are homosexuals, the males are criminals but the females are not? We are here not to enforce Christian law any more than we are here to enforce Moslem law. If I lived in a country with another religion, what right would it have to tell me how I should live my life?

A favourite passage of mine in a book by John Wyndham, *The Day of the Triffids*, underlines the sort of dilemma we have in our society. I do not suggest that I do not understand the fears of those who find homosexual acts repugnant, as I do. I do not mean to offend those friends of mine who are homosexuals in so saying, but that is how I feel; that is my reaction. In the book *The Day of the Triffids* the people have gathered together and the old man got there with the people, some of whom were blind, in a completely changed society. He said:

> We must all see, if we pause to think, that one kind of community's virtue well may be another kind of community's crime; that what is frowned on here may be considered laudable elsewhere; that customs condemned in

> one century are condoned in another. And we must also see that in each community and each period there is a widespread belief in the moral rightness of its own customs. Now, clearly, since many of these beliefs conflict they cannot all be "right" in an absolute sense. The most judgment one can pass on them—if one has to pass judgments at all—is to say they have at some period been "right" for those communities that hold them. It may be that they still are, but it frequently is found that they are not, and that the communities who continue to follow them blindly without heed to changed circumstances do so to their own disadvantage—perhaps to their ultimate destruction.

Later on the old man said to the group:

> Man remains physically adaptable to a remarkable degree. But it is the custom of each community to form the minds of its young into a mould, introducing a binding agent of prejudice. The result is a remarkably tough substance capable of withstanding successfully even the pressure of many innate tendencies and instincts. In this way it has been possible to produce a man who against all his basic sense of self-preservation will voluntarily risk death for an ideal—but also in this way is produced the dolt who is sure of everything and knows what is "right".

I am a captive of my own generation. I am a captive of the prejudices and those things that have been put in me by my parents; sometimes for good reason; sometimes wrong; sometimes right. I believe that I have a duty to pass on my ideas to my children. They will in fact take some of the ideas of their own generation. However, I cannot remain in a Parliament and see the tremendous injustice to people who are homosexual males that must live and die in that lifestyle. I remember a friend of mine who had been a friend for years. When for the first time I put this motion on the notice paper he at last could admit to me that he was homosexual. The relief to be able to tell me something I was not even conscious of previously. The relief to know that a man who was then in his forties, and other men that I have known that have lived most of their lives a lie, a complete and utter lie, for the whole of their lives. What right have I to say to those people, "You are criminals."? Because it is absolute hypocrisy to talk about natural and unnatural. I believe certain things are natural and unnatural. Others believe differently. Why should I as a parliamentarian have the right to judge other people any more than they have the right to judge me?

I support this bill because it will do the primary thing that my motion back in 1977 sought to do, in that it will specify that in respect of males of 16 and 17 years of age it will be a matter for adults. There are aspects of the bill with which I do not agree, and I will indicate those shortly. But I do not believe in the tyranny of the majority for adults. I believe it is for adults to determine their own destiny, as I believe the New Testament makes it for each Christian to determine his own destiny; and Christians do not believe that the State enforces moral law. It is not a function of the State; it is, under the New Testament, a function of each Christian and his own beliefs. Whether we like to say it or not, and it is trite to say we are a Christian community, we are not a Christian community; we are a Christian-influenced community. It is the duty of every Christian to urge his views on others but not to tell the State to impose its particular moral codes selectively. What right have we to determine what two people can do together if they are adults?

This bill—if I may return to several provisions of the bill—has within it certain provisions that I believe are unacceptable. I will be moving amendments at the Committee stage but will, nonetheless, support the bill because we cannot solve all the problems by passing legislation which will affect five million people in this State. Our

duty as parliamentarians is to balance interests. Of course, I do not want people propagating the homosexual lifestyle. I am reassured by the answer of the Minister for Education as to his prejudices in that regard. Of course, people will continue to try to sell the homosexual lifestyle. It will happen. Homosexuality is a fact for a large proportion of the community. It is indeed for those people within the law to live their own lives. It is not, however, for teachers and others to try to impose their views on others, using their positions of power.

If I may return to a part of the bill that has not been dealt with thus far, that is, the definition of the change in the law relating to carnal knowledge of a female under the age of sixteen, this was one of the anomalies created by the rather ill-considered and ill-drafted legislation reforming the laws on rape, which left carnal knowledge in the form that it was, which dealt with penetration of the female per vagina. In fact it left an anomalous situation where, with all the sexual activities covered by the law defining sexual intercourse, of course it left carnal knowledge separate. Carnal knowledge deals with a whole series of sections within the Crimes Act. There is an attempt now to widen that definition in this bill, which does not go far enough. It is my view, and it is a conservative view, that if in fact we are going to have a law retaining carnal knowledge, and that is overwhelmingly an offence in the view of the community, we have an obligation to make sure it is brought into line with the Crimes Act in those amendments concerning rape. The amendments I will propose will be to bring it into line so that there is not one law in relation to rape and one law in relation to carnal knowledge.

The other provisions I want to speak on are the provisions in schedule 1 and in particular proposed section 78T. This particular section is in fact a weakening of the the law, as I think it ought to be, concerning 16- to 17-year-olds. But if I may briefly return to the bill, it deals with the fact that a prosecution ought not to occur after 12 months if the person upon whom the offence is alleged to have been committed was under 18 and over the age of 16. What that means is that if a boy is interfered with in a child welfare institution, he cannot, if he is there for two years after it and he was sixteen at the time, or sixteen and a half and he is there for a year or so, he cannot of course bring a claim or charge in respect of that. I understand the intention of the section. If something has happened to a teenage boy, it ought not be allowed to remain for five years before a complaint is made. What we have to ask is, what is our duty? Our duty in institutions, such as prisons and child welfare institutions, is of course to protect those unable to protect themselves; and homosexual rape occurs, as we have seen in recent times. It is a very sad thing that there is very little protection, and unless people can get some protection within the prison, sometimes outside the system involving warders, in fact they are put upon. I think we need to look very closely as a result of recent publicity at the protection given against homosexual rape. I believe this is a breaking down of the 18-year barrier. Of course, it is an artificial barrier. All barriers dealing with the age of marriage, the age of consent, and age in so many things are artificial—age of retirement, age of work, age when you can leave school and go to school. That is the way our society works, because there is no mechanism to deal with it in any other way.

The other provision that I find repugnant is new section 78T (2), which provides that a prosecution in respect of a homosexual act, if the accused was at the time of the alleged offence under the age of 18 years, cannot be commenced without the sanction of the Attorney General. I think that is an entirely repugnant provision in this bill and in the Crimes Act. Any indictable offence must come before the Attorney General after it has been through the committal proceedings to determine whether a bill should be found and whether it should be presented before a jury. That is his

function at that stage. Of course, it is appalling, perhaps if the offender was seventeen and a half, to have a committal proceeding, a 2-year delay and of course the Crown prosecutor would then probably recommend that in fact there be no indictment or bill found for an indictment and the matter does not proceed at that stage.

The proposal is that at the time of the initial prosecution before the magistrate's court the Attorney General has to sanction it. How will that work? What will happen? At the time of arrest, at the time of interview, are the police going to say: "Well, he is 18. Do we check with the Attorney General's office? Do we take statements?" Do you start the prosecution and then have an application to the Attorney General if the person is in custody and is to be charged the following morning? Not only that; the Attorney General ought not to have at that stage an unfettered discretion to decide whether criminal proceedings ought to start in respect of homosexual offences involving someone under eighteen years of age. Of course I understand the problem that the clause is addressed to, the situation where there may be two 13-year-old boys, or 12-year-old boys or 11-year-old boys who have committed some offence together, or indeed committed an offence with some older person. Of course we do not want children lightly brought before the criminal courts, but these are normally dealt with under the Child Welfare Act, and dealt with very humanely by the courts. But to introduce an Attorney General's discretion is an unwarranted interference of the Government in criminal proceedings, and of course the opportunity for corruption of the police is always there.

I well remember the proceedings in which I acted for a group of young thugs. They were 15 down to about 9. They used to go to the toilets at Balmoral. The youngest of them would go there as a decoy, and they would wait until some homosexual came and would, of course, bash him, take his watch and wallet or whatever, and he was a person without a remedy. Of course I am not sympathetic for the homosexual who was attracted to the young boy. He should be dealt with by the law. But these were human beings without remedy. But what can he do? Can he go to the police? With the sort of mentality that we have, of course not. I know, because I acted for the boys concerned, they had been doing it for years. Eventually they were put in an institution for a period and we broke up the gang. Let us not have this nonsense that it is all the one way, that it is in fact the predator homosexual preying on the young boys. In fact these young thugs knew well what they were about.

The Crimes Act, both before this bill and after this bill, is in an appalling state in terms of penalties. The disparities and the anomalies concerned are a disgrace on this Parliament and a disgrace on the Government because most of the disparities occurred during its time in office. Even if the amendments I propose are carried, or whether they are or not, the Crimes Act and the problems concerning carnal knowledge, concerning the disparity in penalties, must be dealt with as a matter of urgency because a law that is in this state can of course not be respected. People will say homosexuals are not prosecuted. Well, they are. It does not happen very often, but they are. It is not always a prosecution for homosexual acts, because what will happen is that a kid will be picked up on a break and enter or a car stealing, or a vagrancy and will be asked: "Where do you live? Who do you live with? A pair of queers. All right". The police will in fact use the threat of criminal proceedings against them to make them plead something else. That is not all police, but is a section of them. Most of the police that I know are in fact quite satisfied at having to deal with this offence. Many of them were brought up in an atmosphere where crime is repugnant to them: they react very emotionally against it. But it does happen. So to say there are no prosecutions is in fact to ignore the reality that people do not have remedies.

We have an obligation here in this Parliament to look to all sections of the community. I cannot believe that a person is a criminal for being what he is. If a person is a homosexual woman or a homosexual man, that is the way they are and a society that puts those people in gaol for being what they are is an intellectually and morally corrupt society. It is all very well for Christians selectively to try and force their views on others. As I said, it is my duty if I see it as a Christian, to urge my views on others. It is not my duty to impose them any more than it is to have the tyranny of the majority in any other sort of society. I commend this bill. We must remove this so that people can live their lives as they are, not the way a society wants them to be. We have had enough debate. Now is the time to pass it and get on with other matters. I consider it is urgent for all the people who are homosexuals now, for the parents who have homosexual boys, parents who have homosexual girls. It is about time we had a society that stops interfering with the lives of others and gets on with running the society, not the private lives of its citizens.

Mr AMERY (Riverstone) [9.42]: I shall not take up the time of the House by going over many of the points raised by previous speakers. I shall start by first congratulating the honourable member for Bligh on his maiden speech. I admired his choice of this bill to make his maiden speech on, though I must say I cannot agree with the sentiments he expressed. I wish to say from the outset that I oppose the bill before the House. In my view, the bill, though titled the Crimes (Amendment) Bill, could just as easily be titled "The Foot in the Door Bill for Homosexual Liberation" for I believe that we are not only here tonight to debate the finer points of this bill, but we should also be assessing the implications of the passage of this bill for the future. For the homosexual lobby, this is not the end of the road for gay rights; it is the first major break-through in their campaign to have society accept a homosexual relationship on the same level as a marriage between a male and female. We should reject this campaign, and the best way to do that is to reject this bill.

From the first time this bill was mentioned there has been an outcry from the community. There has been no exception to this in my electorate. Although I have received letters from the Council for Civil Liberties and various gay groups supporting the bill, every letter, telephone call, reputation, and petition coming from my electorate has called for the rejection of the bill. I believe that this would be the case in most electorates, with the possible exception of Bligh, so it is pleasing to know that in voting against the bill, I have the overwhelming support of the community I represent. That sentiment was expressed also by the honourable member for Bathurst. I should like to comment on some arguments being espoused by supporters of the bill. It is said that what adults do sexually behind closed doors should not be subject to the Crimes Act. I disagree with this theory. Supporters of the bill would have us believe that the police of this State are breaking down doors arresting homosexuals and charging them with having sexual relations with each other. The only thing I can say about that is that it is a load of rubbish. I submit to this House that the law does not just give the right to authorities to arrest and charge offenders. I believe the law has a secondary role, and that is to set a standard for the community to live by—a yardstick, if you like.

When young people are growing up and going through adolescence they look around them to see the direction in which they are going. I am not just talking about sexual matters, but in many areas. Young people probably mostly look to their parents for example. But they also look to other areas: they may look to their schools, their church, and they certainly look to the law of the land. It is in this area that there is common belief amongst our youth that what is legal, or what is not illegal, is all right. The present laws prohibiting sexual activities between males show clearly to any

youth who may be confused in this area that the law and society prohibit this behaviour. The youth can then decide his own path, knowing that a homosexual lifestyle is no alternative to the natural relationship between males and females.

The present law is not enforced to intimidate male homosexuals in the privacy of their own homes, but it does serve to keep those activities behind closed doors, where they belong. It is interesting to note that in spite of publicity about this bill allowing homosexual acts in private, there is no reference to that requirement in the bill. The police, of course, charge persons under section 79 of the Crimes Act, but that section is mainly enforced when homosexuals are detected in public toilets, parks and of course, in our gaols, where there have been many allegations of this activity in the past couple of days. This raises another point. If homosexual relations are decriminalized, what will be the situation in our gaols? Between consenting males over 18 years of age buggery would not be an offence. This would mean that homosexual males would enjoy freedom that is denied to heterosexual male prisoners. Of course, we could then move to allow heterosexual prisoners to have access to their sexual freedom to alleviate the problem of discrimination. When will it all stop? It has been mentioned that the bill will remove the discrimination against male homosexuals, against female homosexuals and relationships between two heterosexuals. First, in relation to female homosexuals, the main thrust of the bill is to remove the offence of buggery from the Crimes Act. In that vein it is my belief that although a female may be charged with this offence if she is assisting with the crime, she cannot actually commit this act. So any reference to discrimination in that regard is just political double-talk.

I agree that the statement that the present law discriminates against heterosexuals is true, and so the law should. It will be a sorry day when society regards a homosexual partnership on the same level as a marriage between a man and a woman. I said at the commencement of my speech that the bill is only the start of a campaign by the homosexual lobby. That is not merely an opinion; one only has to look to the *Sydney Morning Herald* of 11th May, where it was reported that the gay community are already seeking amendments to the bill. I have said that some amendments will be moved in this debate. What better proof of my argument. The bill has not even been passed and the gay lobby is already on the campaign trail for more concessions. It wants the age of consent lowered to sixteen and it wants a defence for offences against minors. What will be the next move? Some honourable members have mentioned legal marriages and child adoption. Who knows? It is time that the gay lobbyists' campaign was nipped in the bud, and the bud is the bill now before the House.

We must all accept the existence of the homosexual community and that its members have lived with the present laws and attitudes for years. In the past one never heard from the true homosexuals. They lived their own lives and kept their activities private. Now they not only demonstrate for equal rights but campaign that their lifestyle and sexual behaviour should be placed on the same footing as heterosexuals. Whether this bill is passed or not, homosexual activities will continue. However, by defeating the bill, this House will reinforce the standards in our community that while homosexuals exist their sexual behaviour should not be seen as an alternative to a normal marriage. For those who argue that homosexuals are not seeking that concession, I shall quote from a letter dated 10th May, which I received today from a person who gave an address at Darlinghurst. He said:

> I believe this bill is an example of hasty grandstanding. It hardly attacks the central issue at all——

I emphasize these words:

> ——that homosexuality is as valid a form of sexuality as heterosexuality.

That clarifies the matter I have raised. It is all right assisting to remove injustices to various minority groups when their cause is just. However, as the former President of the New South Wales Labor Party, Paul Keating, said at the annual conference of the Australian Labor Party a couple of years ago, when speaking on another matter, "It is about time people in authority started realizing that majorities have rights too". As I said earlier, I oppose the bill.

Mr SCHIPP (Wagga Wagga) [9.53]: At the outset I offer my heartfelt appreciation of the contribution made by the honourable member for Riverstone. He has withstood the pressures brought within the Labor Party within the past few days and has spoken his mind from a practical point of view.

Mr Brereton: The honourable member should not say such rubbish.

Mr SCHIPP: The Minister should not say that. I have spoken to some government supporters who said that the Premier has been sending his cohorts around screwing arms. I was told that five minutes ago outside this Chamber. The Minister should not talk rot. The whole of the Cabinet has been bound to this measure. Honourable members on the Government benches, from the Deputy Premier down, pussyfooted around, and would not call a spade a spade. The honourable member for Riverstone had the gumption to speak from his practical experience as a police officer. He has given his views and has said what he has seen happen. This Chamber and the community will decry the red herrings drawn across the trail in this debate. Members have heard the words decriminalize and legalize. Government supporters should forget the word decriminalize. If this bill is passed, the Parliament will be legalizing a practice that is abhorrent to the community. The House is debating homosexual acts in private. The honourable member for Riverstone explained that the bill makes no mention of "in private".

Debate will take place about the meaning of in private and whether a party is in private. When the police are called to a party, they will be accused of busting into an in-private situation. Honourable members should not talk rot about in private. The bill will give open slather to homosexuals, and members opposite know it. We are talking about eighteen-year-olds, but the proponents of the bill are talking about gender neutrality. That will be the next step. The Premier said that he will be seeking to achieve gender neutrality as soon as possible when the Parliament accepts his particular wisdom. Members have spoken about injustice and discrimination. What rot. What the House is debating is the upholding of community standards. Of course the community discriminates against all anti-social behaviour. Why should it not? The community discriminates in other ways, such as how people drive on the roads. I would say that from speaking to members 95 per cent of them find the practice of homosexuality abhorrent, but they want to pussyfoot around and say that they want to make it lawful. How stupid can they get? Members cannot have it both ways. If they do not believe in homosexuality, they should not legalize it.

Mention has been made about people determining their own destiny. What will they determine—someone else's lifestyle? How will that affect the community? People say that if a tough law is brought in to save lives on the road—even one life—it is worth while. It is known that homosexuals influence others. The honourable member for Lane Cove admitted that homosexuals will promote this activity as a lifestyle. Members have seen the people who have demonstrated outside this Parliament today. I certainly do not subscribe to them as being fellow citizens, the type of people that I see protesting outside this Parliament.

Mr Petersen: They are Australians.

Mr SCHIPP: They are not my type of Australians. I do not subscribe to their lifestyle in any form at all. Honourable members opposite and the honourable member for Illawarra will not make me subscribe to that lifestyle. They are not the sort of persons that the community wants. I believe they should be treated and fixed up so that they are not a nuisance in society. Members on the Government side of the House have told other furphies and said that there are no problems in South Australia. They should make some inquiries about and talk about the underground of homosexual crime in South Australia.

Mr Petersen: The honourable member should give some evidence.

Mr SCHIPP: Talk about what has happened since pink pants Dunstan got in and put his legislation before the Parliament down there. Talk about the young fellow who was found murdered with a bottle stuffed up his anus—the son of a prominent citizen in South Australia, and how that created an undercurrent of fear. Honourable members opposite should not tell lies but tell the truth about what is happening in other cities. Adelaide is a city of fear at this moment because of homosexual activities. Honourable members should talk to the citizens of Adelaide.

[*Interruption*]

Mr SCHIPP: The honourable member for Illawarra can laugh his head off. What the Government is doing will increase homosexual activities threefold in this city. The Leader of the National Party said today that Sydney is the homosexual capital of the world. Members opposite tried to turn it into the homosexual capital of Australia and have talked about population. We are talking about a small city in the world being the homosexual capital of the world and not merely of Australia. That spells disaster for this city. What is happening in South Australia will happen threefold in Sydney. Members opposite should not try to mislead the House. They spoke about deploring the practice of homosexuality but then they want to legalize it. They have made all the legal excuses and legal niceties about how we cannot live as legislators with the sort of legislation we now have. No attempt has been made to correct the so-called anomalies; the Government wants to get rid of the laws altogether. As someone has said, throw the baby out with the bathwater and let us all live with the problems that are created.

The Premier has caused confusion. He did not speak, except for five lines that he is recorded as saying in another debate on similar measures introduced in this Parliament. I have not spoken on this subject in debate in this Parliament previously. As I said, the only contribution of the Premier was five lines when he agreed to the urgency motion moved by the honourable member for Illawarra. At no stage did he give any indication of what his intent was in regard to the future. I shall deal with that in a moment. The Premier has caused confusion in the minds of the public because he said that this Parliament would not have this measure imposed on it again after what happened on previous occasions.

Members were told that there would be no soliciting, yet in the next breath members who are proponents of the bill are telling us that there will be soliciting. One would have to believe in fairyland to believe that soliciting will not occur if the bill is passed. Of course it will occur. Members have heard a member who was a policeman standing here talking about harassment and blackmail and asking when did it happen. The honourable member for Lane Cove told the House that people have been put in gaol. When were they put in gaol? Not one example has been given. I have never had anyone in my electorate tell me that he has been harassed.

Mr Brereton: You would be the last person they would tell.

Mr SCHIPP: The Minister can laugh all he likes. He is locked into Cabinet solidarity and he well knows it. He has had his arm twisted. I do not know what his views are, but I do know that there are genuine people on the Government side that are locked into the party solidarity. I have heard them say it in the corridors. I ask members who support the bill to tell the House when were people last put in gaol under the provisions of the existing legislation. The House is told that homosexual men are born with the inclination, born with this problem. Daily one hears of people admitting that they have kicked the habit. It is a habit, and they have got out of it. Of course they can get out of it. The news from America is that treatment is now available for people if they volunteer. Of course they can get over it and members on the Government side know that they can get over it. I am speaking in this debate because I want to put on record my objection to this abhorrent legislation. It is objectionable and unacceptable to the mass of the population. I support the amendment moved by the honourable member for Hawkesbury that would enable the legislation to be deferred so that it could be tested by a referendum.

I have told my constituents my attitude. The mass of correspondence that has come in on this proposed legislation exceeds the volume of correspondence that has come in on any other subject that has been raised in my eight and a half years in the Parliament. I agree with the other members who have said they have been bombarded with protests against the measure, that not one local submission has been made in favour of the legislation. So I believe I speak for my electorate as well as for myself on this proposal when I reject the legislation. I shall not rely on quotations from some great philosopher of the past. I am talking about practical common sense from people that I believe in, who know what this thing is all about, and I put the member for Riverstone in that category. He is a practical person who has brought common sense into the Parliament. I believe also in the people from my own electorate who know the explosion that this legislation will cause. I make no apology for my attitude to the bill. I have had only one approach from a person who said he was a closet homosexual, asking me could I do something about it. He was not promoting this.

[*Interruption*]

Mr SPEAKER: Order!

Mr SCHIPP: It is all very well for Government supporters to laugh.

Mr Brereton: What did he want you to do?

Mr SCHIPP: I know the Minister's dirty mind on this matter. He can have his little laugh.

[*Interruption*]

Mr SPEAKER: Order!

Mr SCHIPP: That man was worried. That is the only time I have ever been contacted by anyone who has raised a problem concerning the existing legislation. So where is the mass outcry for decriminalization or legalization? I have mentioned that there is no evidence of police bashing down doors. I can find no evidence of blackmail anywhere from any member of the House. I have spoken to many people about it, none of whom can give me one example of the so-called harassment. I deplore what the Premier has done with regard to this legislation. The State has just had an election. He had the opportunity throughout the election campaign to tell the people of New South Wales——

Mr McIlwaine: You are the Opposition. Why did not you raise it?

Mr SPEAKER: Order!

Mr SCHIPP: Because the Premier had told the people that there would be no attempt by him to re-introduce this legislation. Before the Parliament resumed the Premier, dishonestly and deceitfully, told the people that he as the Leader of the Government—the claim that he did it as a private member does not wash with me—would introduce legislation that he had said previously would not be introduced. I suggest that that was the height of deceit. I believe the people have judged him on his deceit. At no time in the past did he suggest that this would come before the House at this time. I can speculate on the reasons. I believe he went to the civil liberties people thinking that he could take them on in regard to the tapes issue and it rebounded on him. He went for his trip to Germany and France and wondered how he could ingratiate himself with the civil liberties people and decided that this was the way he would go about it. Within an hour of landing at Sydney airport he announced this proposal, probably for two reasons; the first was to skate over the Jackson inquiry, but the second and main reason was to iron out the brawl he had brought on with the civil liberties people, that he did not win when they were able to point out to him that he was no longer the famous civil libertarian. He was caught in his own attack and it rebounded on him. Now in an attempt to overcome his difficulty he is trying to become the great reformist. If one reads the Premier's speech one finds stated loudly and clearly that this is step one. He is saying that it will not satisfy all, but it is as far as we can go at the moment; we will go a little further later.

Mr McIlwaine: The Premier did not say that at all.

Mr SCHIPP: The honourable member should read his speech. The Premier said also in his speech that the bill will bring New South Wales up to current community standards. I ask Government supporters to prove that statement. I challenge them to go to a referendum on this issue. I will back my judgment that the people of New South Wales would overwhelmingly toss out this legislation. The Government will not take that step, for its members have not the courage to do it.

Mr Crawford: Why not go to a referendum on every issue?

Mr SCHIPP: No, that is skating over the issue. When the Government is legislating on moral issues it is legislating for the community. In my view the present proposal would be tossed out and I will back my judgment on that. The Government would not be game to go to a referendum on the matter. When the vote is taken on the amendment to provide for a referendum I am confident the members on the Government side will run scared because they are not game to test the matter in the community. They know that there is not one poll or survey in favour of the bill and not a semblance of an indication from the community that people want this proposed legislation. As a matter of fact, they are running scared of it. I say that the trust that the bulk of the community had in the Premier has been breached. He has been discredited. Any further promises he makes can be forgotten. Members know that that has happened in many other areas, but in such an important area it is a shame that the people have been forced to the conclusion that the Premier has dragged down the image of the whole political system by his action in this matter. Having made a commitment to the people, he has now breached it. I suggest that from now on no one should trust any of the Premier's promises or those of a number of other members who have spoken in the debate. It is a shame that members have been brought down to the level that we have at present. I wonder what will be the next permissive area that the Premier will move into. Will X-rated videos be permitted? Even the honourable member for Illawarra gasped when he saw some of the screenings in the theatre the other night.

Mr Petersen: What has that got to do with the bill?

Mr SCHIPP: It has plenty to do with the bill. If the honourable member traces the history of X-rated videos *per se,* from when the entry of pornography started in the early 1970's——

Mr Petersen: Those that were shown were denied classification.

Mr SCHIPP: The honourable member is wrong. When one traces the history of pornography from the early 1970's to what it is now and what is expected in the very near future, one will see exactly the floodgates that are opening in regard to homosexuality. Exactly the same pattern will develop in the community. I forecast that that will be the story and I will stand to be proved wrong, but I am sure I will not be. In ten years time people will be asking us why we did not block it when we had the chance to block it. That is a question that I will not have to answer, for I am speaking against the bill and seeking to block it at the point where I believe it should be blocked. Members who support the bill will have to answer for the miserable lifestyle that people will have to endure, and the deaths that undoubtedly will occur. An undercurrent of criminality will result from this proposed legislation. I have mentioned that the Premier hung his hat on only two major issues. He spoke of current community standards. Whose standards? Whose assessment? Where were they taken? How did he take them? There is no way known that anyone can answer those questions. It is an unknown. The House does not know what the community wants and the Government is not game to test the opinion of the community. The Premier spoke about the discriminatory part of the Crimes Act. Of course the law discriminates against wrongdoers, people who are against the standards of society, who are anti-social and who are all the things that members know many homosexuals to be.

I shall try to sum up the weight of community attitude as brought to my attention in my own electorate and across a broad span of the State. My personal judgment, based on the judgment of the community, is that on a religious basis homosexuality is anti-Christian. It is immoral, it erodes the family unit, and there is no known way that one can continue a family lifestyle by indulging in homosexual practices. Homosexuality is unnatural and is a perversion. In no way can it be compared with a heterosexual lifestyle. I reject any contention to the contrary. It is unhealthy, and we all know that there is plenty of evidence about AIDS, VD, and hepatitis B. Of course, it involves such diseases because of the filfth involved in the practice. Let us not overlook that aspect. We all know that it leads to bad health.

Mr Crawford: All human contact leads to disease.

Mr SCHIPP: I am making the point that homosexuality is particularly nasty. No wonder AIDS exists. It may be as well if they do not find a cure for AIDS; that is my judgment on it. It legitimizes a practice that the community will not accept. It gives the opportunity to promote a lifestyle that the community neither respects nor accepts. It puts young people at risk. As I said earlier, I believe that it will lead to soliciting and promotion, and that these things will come about insidiously. We all know this will happen, yet we hide from the truth. We hear stories that the legislation will curtail this, that and the other and how all the goodie-goodie people will not allow any awful things to happen as a result of this legislation. However, we must face the fact that this House is now legislating to cut down community standards. Let us not hide behind double talk or have any hedging or pussyfooting, such as we have been treated to by some Labor members. I deplore the fact that there is no conscience vote in the Cabinet and in the bulk of the Australian Labor Party. People have said to me today that their future in the party rests on their attitude to this bill.

Mr McIlwaine: That is absolute nonsense.

Mr SCHIPP: The honourable member for Ryde has no future in the party, so he does not have to worry about such things. Nobody even spoke to him on the matter. Before I walked into the Chamber I was told by one member that his future in the party rested on voting in support of the Premier on this legislation. I deplore the method by which this legislation has been introduced so soon after the election without the matter having been put to the people. Further, I deplore the speed of the passing of this bill which has prevented people at large building up a full campaign against it. I believe there is such a majority vote against this legislation outside this House. I hope that those people remain so angry that at the next election they will sort out the men from the boys. Nobody believes that this is the end of the line. It is part of a step by step process. The honourable member for Illawarra is already claiming that the bill does not go far enough. The matter will just go on and on. As I said earlier, this is the pornography argument over and over again.

I challenge the Government when we come to the Committee stage to support an amendment for a referendum on the basis of a fair question being put to the people. If that happens, I bet any honourable member in this House that the public at large will reject this legislation. I hope that there will be enough people on the Government benches who will have the gumption to cross the floor and vote on the bill as a matter of conscience. I know privately what they are saying and how they would like to vote if they had the will to do so. I believe it is deplorable that views are being imposed on people when those views are not acceptable to the community. If this legislation goes through, it will legalize the practice of homosexuality. The bill does not attempt to deal with whether it covers homosexual practices in private. That element is not spelt out in the bill; there is no definition to that effect. There will be challenges galore to the definition of the words "in private", whether in groups, parties or whatever. Certainly the moment the police move in, there will be screams from civil libertarians who will say their rights have been intruded upon. There will be every type of escape hatch. It will no doubt be argued that a person reasonably thought that a young person was over 18 when in fact he was not. That will be another escape hatch. Again, the whole process will go on and on. I believe that the Premier and those who support this legislation stand condemned for what they are trying to perpetrate on the people of New South Wales. I ask those people to delay these provisions until they can take the opportunity to examine what is happening in those places which have already legalized homosexuality in the community. They will not like it at all if they speak to the people concerned. I reject the bill outright.

Mr COX (Auburn), Minister for Mineral Resources and Energy [10.18]: I wish to address the House on this bill, because on the three occasions on which the subject of homosexual acts has come before the House, I have opposed such measures. On the last occasion I opposed the proposed legislation on the ground of the age provision. I want to deal first with the matters raised by the honourable member for Wagga Wagga who suggested that my colleague the Premier has had some influence on the Cabinet. I wish to make it clear that there is no way in which the Premier could have any influence on me in relation to this matter. Because of recent events, I assure honourable members that the Premier has no influence whatever over me in the stand I am taking on this bill tonight. I do not find the stand I am taking on this bill an easy one. I have listened to the debate, and I have heard from some Opposition members the most uncharitable approach one could ever possibly want to hear in this Chamber. One would think that because a person is a homosexual he is to be loathed and he has no chance whatever in life. The argument almost comes to the point that such a person will have no chance of reaching heaven. I find that a most

loathsome approach. I recently wrote to a friend of mine seeking advice on this question. He sent me an excerpt from a book which is headed, "Try never to judge". I wish to quote one short passage from that book:

> The human mind is so delicate and so complex, each mind is so different, actuated by such different motives, controlled by such different circumstances, influenced by such different sufferings, you cannot know all the influences that have gone to make up a personality. Therefore, it is impossible to judge wholly that personality. Leave to God the unravelling of the puzzles of personality. And leave it to God to teach you the proper understanding.

In this Chamber tonight we have heard speech after speech by those people who take it upon themselves to judge others. They have done that in such a way that it would virtually destroy anybody who can be determined to be a homosexual. All this bill will do is to decriminalize the act of homosexuality between adults in private.

Mr Peacocke: Nonsense!

Mr COX: That is what the legislation will do. Are we to deny that sort of comfort to the homosexuals in our community or are we at all times to label them as lepers in our society? That is what some Opposition members are doing. I make my position clear. I find the homosexual act very difficult to accept. I regard it as an offence, and indeed it is an offence under the present law. Some honourable members have argued that by way of further attempts to influence this debate, the questions of homosexual marriages and homosexuals adopting children will be raised. I make my position perfectly clear. I support this measure, and that is all. I certainly will not support any proposed legislation that approves of homosexual marriages or homosexuals adopting children. I am sure the majority of members who are supporting this measure tonight will not support homosexual marriages or the adoption of children by homosexuals.

Mr Peacocke: That is this week.

Mr COX: The majority of members here tonight. The attitude of the honourable member interjecting reflects what I said earlier. It is so easy to judge and put labels on people. Anyone who can sit down and judge a person should first have a look at himself.

[*Interruption*]

Mr SPEAKER: Order! I call the honourable member for Dubbo to order.

Mr COX: As a parent of five children, I am concerned with the social fabric of our society. All honourable members should be concerned about that. If one looks at community social and welfare payments being made today, one wonders what has occurred in our society. A remarkable increase has occurred in the allocation of funds to child welfare. That clearly demonstrates that when the fabric of our society breaks down, society pays for it—and pays for it through the hip-pocket. Honourable members should be aware of the suffering that occurs when the fabric of our society breaks down. The community is inflicted with untold suffering. Honourable members are asked only to agree to a measure which states that the homosexual act between adults in private should not be regarded as an offence. Is that so very difficult to accept? No. What has poisoned the minds of some honourable members here tonight is that they have a hatred of homosexuals. That hatred has been evident in this debate.

I am pleased that, in the three weeks I have had to look at and give thought to this measure, I have been able to remove myself from the feeling that exists in this Parliament tonight. I will not worry about reactions. Honourable members say they have received letters. I have received letters opposing this measure, and I have received letters in support of it. I do not think any honourable member should base his argument on the number of letters received. The issues go further than that. The issues relate to human beings and their problems. They are the biggest issues here tonight. On looking at some of the literature sent to me through the mail I felt there was a degree of sickness in our society. Material was sent to me suggesting that certain things would happen in the bill. This is not correct. I have spoken in this debate for the very reason that I found it difficult to arrive at a decision. However, I am not sorry I came to that decision because I believe that in doing so I have determined not to be judgmental and label people, as some honourable members are doing tonight. For the benefit of the honourable member for Wagga Wagga, I repeat that his suggestion that the Premier influenced me in this regard is rubbish. The events of the past two months as they relate to me clearly indicate that the Premier has as much chance of influencing me as flying to the moon. For the reasons I have advanced, I support this measure.

Dr METHERELL (Davidson) [10.25]: I pay tribute to the Minister who has just resumed his seat for the courage he has shown in moving from the more conservative position he held on earlier occasions to the stance he has now adopted. I make it clear that I for one on this side of the House believe every word he said, in that he was not influenced by the Premier and that the Premier does not have any influence over him, but that he reached his decision in accordance with his own conscience. I would have hoped that is how all honourable members would arrive at a decision. I deplore the sorts of comments that have come from behind me during this debate about the reasons for members reaching their decisions.

It is time for change. It is time that this Parliament faced the twentieth century. It is time also that a greater degree of Christian charity was shown by the members behind me who are now interjecting. The end of civilization has not been witnessed in South Australia or in Victoria since similar legislation was introduced. We have not witnessed the end of civilization in our time in the Australian Capital Territory or in other places where these sorts of reforms have been introduced. I take great pride in the fact that amongst the earliest pieces of reforming legislation of this sort were the new regulations introduced in the Australian Capital Territory by a very committed, devoted and righteous Commonwealth Attorney General, Mr R. Ellicott.

Mr Ellicott had the courage to face his own party, the electorate, and, more important, the community and say that in the Australian Capital Territory, where he and his Government had the authority, it was time to bring the law into tune with prevailing community standards. From his deep religious convictions he found it was possible on the one hand to deplore the practice of homosexuality, as he did, and yet on the other hand to believe that the practice of discrimination against homosexuals in the twentieth century is a disgrace to this community and a disgrace to civilized standards.

I pay tribute to three other individuals who have played such a prominent part in bringing this bill to its present stage which is, I believe, on the eve of very necessary and long overdue reform. I refer first to the honourable member for Lane Cove who very courageously, while a backbencher, took on his own party and introduced a private member's bill to bring about reform in this area. In many ways he led the way in the Liberal Party in bringing about the sort of reform which I think a majority of Liberal Party members in this House will vote for tonight. I pay tribute to the honourable member for Lane Cove in another respect. I believe he

prompted the Premier to introduce this bill. It was common knowledge in this place and in the corridors of power that the honourable member for Lane Cove intended to reintroduce his private member's bill on this measure. I do not think it was any accident that when the Premier came back from overseas, the first step that he took was to announce his intention to introduce an almost identical measure to the one that the honourable member for Lane Cove intended to propose.

I pay warm tribute also to the honourable member for Illawarra. I do not agree with a number of the positions that that honourable member has adopted in relation to homosexual law reform, but I acknowledge that he has adopted his positions with great courage and with great persistence. I am sure that had he not crusaded in the manner he has, honourable members would not be tonight debating this measure in the way that we are and, I believe, they would not be ready to pass this measure as they are about to do.

Third, I pay tribute to the Premier. The measures before the House tonight and the votes that will have been mustered for them owe a great deal to the fact that the Premier was prepared to grasp the nettle this time and introduce the bill as his bill. There was a great deal of criticism of the Premier on previous occasions, irrespective of his personal voting record, about the fact that he did not take a sufficiently front line position on this most important reform. He has now done so and, together with the honourable member for Lane Cove and the honourable member for Illawarra, has earned the gratitude of genuine reformers in this place who wish to see the New South Wales Parliament back in the lead, or at least back among the leaders of social reform in the twentieth century, not lagging many decades behind.

We should not in this debate forget members of the gay community of Sydney who, after all, have been most forthright and courageous in their crusade for these changes. Of course members of that community have an interest, but they have fought a long battle indeed. Many of them feel that the battle is not over. Most honourable members who have taken part in the debate alluded to that fact. Some look forward to further reform, as the Premier said in his speech, and some say this is the thin edge of the wedge and there will be other reforms to come. But what else could one expect from a minority that has been discriminated against for so long, that have a deep and real sense of injustice, than a continued crusade until those injustices are finally removed and until they have what they are simply asking for, which is equality before the law.

The Leader of the Opposition referred to these measures in the context of Liberal principles and quoted John Stuart Mill. I should like to refer to the words that he quoted from John Stuart Mill for I think they are most appropriate. In his introduction to *On Liberty* John Stuart Mill says that the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others. A strong onus lies on those who wish to use coercive powers of the State against a minority to demonstrate clearly, effectively and irrefutably that there will be harm done to others if that minority is not persecuted and discriminated against. I am not convinced that that has been demonstrated; that it is clear and unquestionable that the homosexual community of New South Wales is out to harm others, is harming others and will harm others as a result of the bill before the House. I speak not about the fears, not the chimeras that have been raised in this debate and the hysteria that has sadly crept in to some of the contributions, but the actual terms of legislation.

Let us remind ourselves of those terms and the many draconian provisions that remain in legislation. It remains, of course, an offence for a male person to have homosexual intercourse with another male under the age of 10, an offence which is punishable by life imprisonment. That may be a terrible crime, but it is a terrible punishment compared with the likely penalty for murder. It is an offence for a

teacher, a father or stepfather to have homosexual intercourse with his male pupil, son or stepson, and again there is the provision of a heavy penalty of fourteen years penal servitude. They are but two provisions. There are many more provisions in the bill that carry among the heaviest of penalties provided by the Crimes Act of this State. I agree with the honourable member for Lane Cove when he says it is high time the entire Crimes Act was reviewed, because we have a demonstrable shambles of an Act when the penalties for many moral offences are more onerous than the penalties for offences involving what I think the community would regard as much more serious offences of violence and offences against property. I should like to touch briefly on this question of further reform of the so-called thin edge of the wedge. It was the Premier who said this in his speech:

> I would like to think that once that principle——

That is the principle which decriminalizes homosexual acts between consenting adults in private:

> ——is adopted by the law then on some other occasion this Parliament might consider the age question in the context of established principles and the experience of the community from the application of that principle in practice.

I too share that view. There was much merit in previous proposed legislation referred to commonly as the Unsworth bill. I believe there ought to be a defence for homosexuals over the age of 18 who engage in homosexuality with someone under the age of 18 whom they genuinely believed to be an adult. That seems to me to be a reasonable defence, and yet it is not a defence provided for in the bill. There are other reforms that I think will come in time, but they will only come in time if it is demonstrated, once this bill is passed, that civilized values as we know them do not disappear from our community. When those fears are allayed and the real experience of the community with this legislation is evaluated, we can look sensibly at other questions. If some of those fears are justified, the further reforms will not occur. But I believe that further reforms will flow from what is at this stage only a modest step forward.

I shall touch briefly now on this matter of the alleged wave of community unrest and community reaction against these measures. Each of us can only speak for himself and his electorate in terms of the experience of the so-called wave of community unrest. During the so-called wave of unrest I received twelve individually written letters, nine telephone calls and six or seven single-page petitions. In addition to that very small wave of so-called community unrest I have received also five or six circular letters of the type that were sent to every member of Parliament. But I received only twelve personal letters and nine personal telephone calls opposed to this bill. I received more individual representations concerning the Mental Health Bill when it was before the Parliament than I have received on this bill. I am proud to say that I believe I represent an electorate that is well enough educated and well enough balanced—an electorate of younger, family people who do represent a cross section of current community views, who are for reform in this area. I am convinced from the reaction in my electorate that the attitude is that acts between consenting adults in private are matters for the private consequence of those individuals and should be left to those individuals to determine. I support the bill and reiterate that it is long overdue. Thank goodness this Parliament will face up to the twentieth century at last.

Mr McILWAINE (Ryde) [10.39]: I did not support the honourable member for Illawarra when he moved a similar bill on a previous occasion, though I felt a need for reform. I supported the bill introduced by the Hon. B. J. Unsworth in the

other place and the bill presented by the former honourable member for Cronulla. However, I am a little disappointed by the debate and the fact that personalities have crept into it. I do not believe that is helpful to an honourable member who is considering the measures. In fact, it may harden views on an issue on which one ought to be searching for compromise or for a view that is common to all, if that is at all possible in our society. It is clear to me that the existing law is based on the law of the Bible. It is based on God's law. It is equally clear to me that homosexual conduct is morally wrong. But how does one enforce that view, my view, or anyone's view, in relation to the criminal law? The sanction of the criminal law is a fine or imprisonment and indeed as we have learned recently if one does not pay the fine, one ends up again with imprisonment as the ultimate sanction. I cannot accept that anybody with a truly Christian point of view would wish to gaol a person for a homosexual offence. Some of the rationales for imprisonment are commonly stated to be retribution, deterrence and rehabilitation. In matters of morals or sin, surely the Christian view is that these concepts ought to be matters for God to determine. In fact, when I discussed with my constituents and others this matter of whether one ought to gaol homosexuals for their conduct, there was always a real hesitation before anyone answered that question. The question is, why should they go to gaol? Indeed, many of them cannot answer that question and to me this is a question that should also be uppermost in the eyes of the legislators whether they be Christian or otherwise.

It is a debate that has long gone on in society, which the law schools will long consider, of where morality ends and the criminal law intrudes. The question was directed to the Wolfenden committee in the United Kingdom in 1957 and that committee concluded: "The function of criminal law, as we see it, is to preserve public order and decency, to protect the citizen from what is offensive or injurious and to provide sufficient safeguards against the exploitation and corruption of others, particularly those who are especially vulnerable, because they are young, weak in body or mind, inexperienced, in a state of special physical, official, economic dependence". I agree with that concept of law. Indeed, I am satisfied that the proposals in the bill cover those problems as outlined—the problems of the young, the persons with the special physical or economic dependence.

I know that there have been many matters cited to the Parliament on this occasion, and on previous occasions, from each side. Therefore, I do not want to refer extensively to matters that have been quoted one way or the other, because I do not think at this time that is helpful. In my research I came across a thoughtful paper which was submitted to a seminar in 1977 organized by the Government. The paper was entitled "Moral Implication of Homosexual Behaviour—Submission to the New South Wales Government Seminar on Victimless Crime". It was prepared by the Dean of Sydney, the Very Reverend Lance R. Shilton. In the conclusion to that paper the author made seven points. It is relevant to refer to them here. He said:

> In conclusion, based on evidence included in this paper, I submit the following recommendations as first included in the Report of the Ethics and Social Questions Committee to the Synod of the Diocese of Sydney which form part of the Anglican Church (Diocese of Sydney) to the Royal commission on Human Relationships.
>
> (1) Because of the confused state of existing legislation in the Commonwealth of Australia on homosexuality, the laws relating to homosexual offences should be made more uniform.

We already have evidence before the House that the laws in this area are not uniform and that some States are moving in one direction and others in another. It is time for the New South Wales Parliament to move in the direction of the Victorian and South Australian parliaments. The submission continues:

> Because of the possibility of inflicting permanent emotional and psychological damage on the person accused of a homosexual offence, first offenders, at least, should appear in private before a properly constituted tribunal.

Again, there should be some special arrangements. I do not accept the imposition of another limitation, another discriminatory factor, though I understand the thought behind the proposal. I do not believe that we ought to proceed in that direction. The submission continues:

> Because of the wide differences in homosexual offences and because prison may exacerbate the problem of homosexuality, careful research should be undertaken to determine the form of penalties to be prescribed for homosexual offenders with a view to substituting other forms of penalty than imprisonment, except for more heinous or repeated offences.

Again, imprisonment is not the answer. There should be further research into other means of dealing with the problem. Unfortunately, that paper was written in 1977 and apparently there have not been other suggestions about what else ought to happen. The submission continues:

> Because of the serious possibility of involving police in unjust and morally degrading behaviour, the processes of apprehension should be carefully reviewed so as to eliminate the provocation of homosexuals to commit offences, for example, *agents provocateurs.*

That is another reason for changing the law. The submission continues:

> Because of the need to help the practising homosexual to adopt a different way of life in addition to any other court ruling, convicted homosexual offenders should be directed to receive qualified psychological help providing that such help has the co-operation of the person directed to receive it.

The unfortunate part about that very good concept is that when people with psychological problems go to their local member, as I am sure they do, and the member tries to get them to seek assistance, it is like talking into the wind on a windy day. The advice is ignored. People do not want to listen. They cannot be directed to accept help. The submission continues:

> Because of the need, governments should provide facilities for psychological help and rehabilitation for those who wish to avail themselves of these facilities.

Again I do not think anyone would quibble at that. The submission continues:

> Because homosexual behaviour is inimical to the interests of society, governments should restrict by legislation the promotion (by advertising or other means) of homosexual practices as legitimate.

To a certain extent the Government already does that through the sexually transmitted diseases clinics, advertising of those facilities, and so on. Many members have referred to the comments of their constituents both for and against the bill. I have had long discussions with people in my electorate about it. I have had letters from people

who said if I vote for this bill I will become a public sinner. I do not think even the honourable member opposite agrees with that. I really am distressed by that sort of letter. Let me read this one to the House:

> Permit us to remind you that it has always been the constant teaching of the Church, that homosexuality is forbidden as a grievous sin against the laws of God and of nature. If one were to vote in favour of legislation which would permit such behaviour under any circumstances, such a member of Parliament would commit mortal sin, and be considered a public sinner. Public sinners are to be denied the Sacraments until they make public reparation for their sin. Furthermore, the new Code of Canon Law (Canon 1399) provides for ecclesiastical censures for the transgression of the divine moral law. Sodomy is one of the four sins to cry to heaven for vengeance. Do you wish to stir the wrath of God against the State you represent? We await your answer at your earliest convenience.

A person who could write that sort of thing could not have a right view of what a Christian or religious attitude ought to be. I am fortified by a report of views expressed in 1957 in the House of Lords by the former Archbishop of Canterbury, Lord Fisher, during the debate on the Wolfenden report. Lord Fisher said:

> So long as homosexual offences between consenting adults are criminal and punishable by law, this pressure will mount and homosexualism will remain. It has all the glamour and romance of chosen and select rebels against the conventions of society and the forces of law. At the heart of this kind of freemasonary are men of passionate sincerity who are made strongly homosexual by nature, who believe that what is wrong for others is right for them, and that society is not merely hostile but unjust and cruel. Into this kind of nightmare world there can be no entrance for the forces of righteousness until the offences are made no longer criminal, so there is no longer a question of betraying companions to criminal offences. At once the free air of normal morality will begin to circulate.

I ask the House to reflect on that concept as propounded in the House. All the material placed before me from groups has been of an entirely negative nature. It is true today that one does not convince people by telling them they cannot do things. Even my own children, once they turned seven, would not accept "You cannot do that". It was necessary to give them some explanation and a positive way to go about it. Unfortunately, too much of the material that has come before this House has been negative in nature, simply saying, "We oppose the bill". Too much time and energy of good Christian people have been spent saying, "We totally oppose this legislation". Instead they should have tried to give a positive point of view and a lead to those who perhaps do not agree with them. I know it will be difficult for many people associated with various organizations who have that point of view and have expressed it strongly. They need proper leadership that will try to change society by example, not by opposing everything.

Yesterday I was pleased to meet a number of people. One of them was Mrs Elmay Shields, who came to present her strong opposition to this proposed legislation. I accept that opposition because I believe she has the ultimate right to put her point of view. That right should be defended by every member of the Parliament. Some very good friends and constituents of mine, Mr and Mrs Frank Mason, who are very active in the local Uniting Church also came to see me. The interesting thing about Mr and Mrs Mason is that they spend most of their time working for other people. Had their energies and their fellow Christians' energies been channelled another way instead of this negative way, a lot more would have been done to overcome the

problem of homosexuality in our community. Mr Mason does tremendous work for the community in a group called Splash, which teaches disabled persons to swim. He spends a lot of time on that and channels much energy into it.

Recently Mrs Mason came to see me about a housing problem facing another person in her area. Had these people channeled their energies into convincing people who follow a homosexual lifestyle that it is wrong from the Christian point of view, I believe they would have been much more successful simply saying, "Vote against this bill because homosexuality is wrong". The homosexual lifestyle is not for me, but I have great difficulty in doing the work of a member of Parliament in that I try not to judge people. I see many people. Sometimes I almost scream at them because of what they do to get themselves into so much strife, particularly when their family is involved. I have to think twice because it is not my role to judge them but to try to help them. I commend to the House a re-reading of the speeches in the debates on earlier bills of this type. Members have quoted great slabs of scripture. I just refer the House to the final few paragraphs of the speech of the Hon. B. J. Unsworth when he moved in another place the introduction of a bill to change the law. He reminded honourable members of the example of the woman caught in adultery, which is related in chapter 8 of the Gospel according to St John in this way:

> He (Jesus) looked up and said "Woman where are they? Has no one condemned you?" "No one sir", she replied. "Neither do I condemn you", said Jesus, "Go away, and don't sin any more".

This House should take the same view, because by maintaining the sanction of the criminal law we will never change the conduct of people who adopt this lifestyle. For those reasons I believe the bill should receive a second reading. I shall look closely at the amendments.

Mr CATERSON (The Hills) [10.55]: It is a matter of great concern to many of my constituents that this bill has been brought on in this short session and with what they believe to be——

Mr Petersen: You would oppose it whenever it was brought on.

Mr CATERSON: ——unholy haste. They cannot understand why the Premier, on returning from overseas, regarded the legalizing of homosexual acts as the most important matter to talk about, and why he has given it top priority in the business of the House in this short session. It is a sad day for the people in this State that for the fourth time in two years we are taking the time of this House to consider a bill on this matter, and not only taking the time of the House——

Mr Petersen: Well, vote for it and get it over with.

Mr CATERSON: ——but sitting extended hours, which we have not done in respect of any other matter in this session.

Mr Petersen: When injustices occur action should be taken.

Mr CATERSON: It is all very well for the honourable member for Illawarra to interrupt me. He had his say and I propose to have mine. He is not going to deter me by his constant interjections. That is the type of attitude he has adopted every time this matter has been before the House, to try and bulldoze it through. The honourable member is not going to bulldoze me this evening. This is one of the most divisive issues to come before this Parliament. Honourable members on both sides of the House must regret that this bill is dividing otherwise loyal colleagues and friends. I am happy to say that those comments do not apply to members of the National Party, who collectively are opposing the bill.

The bill seeks to amend the Crimes Act by repealing certain sections of that Act. It seeks to abolish the crime of buggery; to remove legal sanctions against certain sexual acts between males; and to abolish the crime of soliciting—this is most important —male persons in a public place. In fairness, I must say that the bill qualifies the amendments by including in the Act provisions that will prohibit homosexual intercourse between males where the age of one male is below eighteen. I make that clear that I am totally opposed to any change in the present law. It is said that what goes on in private is not the business of other people. One honourable member said that what goes on in the bedroom is no concern of others. However, the bill goes far beyond that statement. The Minister for Mineral Resources and Energy said that the amendments will apply only to homosexual acts in private. I have searched the Crimes Act and the amendments before the House and nowhere is there mention of in private. As I am informed, the constraint on homosexual acts in public can be dealt with as an offence only in respect of another Act of this Parliament, the Offences in Public Places Act. It is not right that honourable members supporting this bill should say that the provisions relate only to those offences committed in private and that the law can prevent other offences. The honourable member for Riverstone and the honourable member for Wagga Wagga asked, what is in private? Is it behind the locked door of a public toilet? The honourable member for Wagga Wagga mentioned a sex party in a home, or in a private place, hotel or room. Is that in private?

Mr Brereton: Is that whether a person is in there or looking through a crack?

Mr CATERSON: I shall not be looking through a crack, but I guarantee that the Minister will because he is supporting the bill. Is in private in the backrooms of clubs and bars? It is false to say, as has been continually said by members supporting the bill, that all that is being done is to permit homosexual acts between consenting males in private. That is not so and the public of New South Wales should know that. I guarantee that in days to come what I am saying will be proved to be correct. There will be continual argument about whether the act was in private. The police will be so bewildered by the amendment to the Act that they will not take action where they see what should be regarded as a crime being committed.

It has been suggested that there will be no risk to other people. That is a complete lie. I think it was the honourable member for Hornsby who said that whatever one does has some effect on other people. The act of homosexuality between two males at least has an effect upon each of them, on their behaviour, their outlook on life, and their attitude to others. I could go to the extreme in my remarks about the effect upon others. A person close to me is a consultant renal physician at Royal North Shore hospital. She is constantly dealing with blood and is subject to the disease Hepatitis B, which can be fatal. Throughout the world there is a history of fatalities in persons working in renal units. People can be vaccinated against Hepatitis B, but, because often the vaccine is taken from homosexuals, many doctors are afraid to have the vaccination. That attitude is not remote from me. My daughter is in this position—she does not want to be vaccinated. Hepatitis B is most prevalent among homosexuals. My daughter would prefer to run the risk of contracting hepatitis B than contracting acquired immune deficiency syndrome through being vaccinated. She is not the only one who takes that view. I know of two other renal consultants who are of that same view. It is a lie to say that homosexual acts between consenting males do not have an effect on others. They do and will continue to have an effect. I could give many other examples to support my views.

It has been said that the health argument—and I quote the words of an honourable member—is a complete red herring. Obviously he has not read of acquired immune deficiency syndrome, or has not concerned himself with the views of medical practitioners who say that many other health problems are associated with homosexual acts. I am informed that homosexuals are promiscuous. Members of this Parliament

should be concerned about the health and research costs involved to the community in these acts. Another argument put forward in this debate—a furphy put forward by reformers—is that it is not for the legislature to impose moral judgments. In a dramatic and emotional speech the Minister for Mineral Resources and Energy said that. All criminal law imposes moral restraints and moral judgments on the acts of human beings. Whatever be the facet of the criminal law, it deals with moral judgments. The stealing of property, assault, rape or murder are all moral issues and the law imposes moral sanctions and moral judgments upon people convicted of committing those offences. It is wrong to say that it is incorrect and improper to impose a moral judgment on homosexual acts between males. Society is concerned about moral standards and maintaining a decent standard of family life.

Another point I wish to raise concerns the comment that legalizing homosexual acts between consenting males will not increase the number of homosexuals in the community. This is another lie. In recent years homosexuals have become more active in proselytizing young people to take up homosexual activities as an alternative lifestyle. That has been said in this House earlier this evening and it is fact. The honourable member for Bathurst said that this has been brought about to some extent not only by the activities of homosexuals, but also through the support of certain sections of the news media. The honourable member probably is right. No matter what the Minister for Education said today about what might happen in schools with homosexual teachers, they will be able to encourage students to practise homosexuality. If this bill is passed, it will not be illegal for them to do so. When I refer to teachers encouraging students to partake in a homosexual lifestyle, that does not mean performing homosexual acts with them, but encouraging them to experiment in homosexual activities in the future. This will result only in what I call proselytizing and will have a disastrous effect on young people in the community.

Much has been said about victimization and discrimination of homosexuals. If a teacher endeavours to influence the boys in his class to experiment with homosexual activities and disciplinary action is taken against that teacher, honourable members will hear the screams about victimization and discrimination. No assurance that any Minister gives will prevent that occurring in New South Wales schools. This should make honourable members more careful about supporting the bill. Time does not permit me to look at all the other arguments put forward by those favouring the change to the law in this regard. I wish to comment on one other matter. The Premier emphasized discrimination against homosexuals. The same may be said of many other classes of people. If there are people who practise bestiality—and I know nothing about that—cannot they say that they are being discriminated against because homosexuality is being legalized but not bestiality? The argument of discrimination can be carried to extreme lengths.

I support the amendment moved by the honourable member for Hawkesbury, that consideration of this matter be deferred to enable the people of New South Wales to decide by way of referendum whether they wish the law to be changed. The Minister for Mineral Resources and Energy said that honourable members should not take notice of representations made to them. The Minister knows that to be a stupid statement. He said that honourable members should decide the issue themselves. I have not had one representation made to me favouring a change in the law relating to homosexuality, but I have had hundreds of people telephone, write and sign petitions expressing opposition to any change. As the honourable member for Eastwood stated, the number probably would go into thousands. If the Government is sincere in its intentions, it should permit the people of New South Wales to decide the issue. The Government should not play God and determine these things, but should let the people of New South Wales vote upon it. I implore the Minister and other honourable members who might vote in favour of the change in the law sought in this bill to

consider seriously supporting the amendment moved by the honourable member for Hawkesbury so as to let the people of New South Wales inform honourable members what they believe the law should be.

[*Debate interrupted.*]

PARLIAMENT HOUSE SECURITY

Privilege

Mr T. J. Moore: On a matter of privilege. I wish to raise briefly a point of privilege suddenly arising pursuant to Standing Order 158 which concerns the strike by parliamentary security officers and commenced at 11 p.m. I propose to move a motion should you rule that a point of privilege exists. Earlier today two-thirds of the persons of this building were evacuated because of a bomb threat. That evacuation took place promptly, in a controlled fashion and in a manner that indicated that the threat was taken seriously. I am concerned that commencing this evening for a period of 24 hours this Parliament House is the subject of a strike by its security officers arising from an industrial dispute with the management of this House. I submit that the Parliament has not been adequately informed about what is occurring in respect of that strike. To that end, as a matter of privilege, it is appropriate that this Parliament should consider the motion:

> That this House notes the strike by members of the Public Service Association employed as security officers at Parliament House commencing at 11 p.m. this evening and requests Mr Speaker to make a detailed statement to the House on the dispute, the security of the House and the carriage of arms in protection of members.

Mr SPEAKER: Order! The honourable member for Gordon has raised a matter of privilege suddenly arising under Standing Order 158 and has intimated that the House is concerned at the fact that security officers of Parliament House will be on strike from 11 p.m. this evening until 11 p.m. tomorrow. In discussions with the Clerk a short time ago I was assured that an adequate number of special police are on duty. The honourable member for Gordon has not established a prima facie case of privilege.

[*Debate resumed.*]

Mr PEACOCKE (Dubbo) [11.20]: This bill is not a bill to legalize homosexual acts between consenting adults in private; it is a bill to place the public imprimatur on homosexual acts wherever they may occur. Homosexuals do not need protection against prosecution for homosexual acts between consenting adults in private. If the acts are in private, no one but the two persons involved will know anything about them. There is no way in such circumstances that police or anyone else for that matter could prosecute. The Leader of the Opposition has made reference to bedroom police. What utter nonsense. I defy him to produce in this House one single case where a bedroom has been invaded by police and a prosecution has been the consequence. The bill is the final act in a programme devised by many so-called libertarians to drag the moral codes of this State into the gutter. I pass no moral judgment on homosexuals for what they do in private. That clearly is their own business. I pass no moral judgment on heterosexuals for what they do in private. That also clearly is their own business. But when they bring their activity into the streets, that is my business and it is the business of this House.

I feel compelled to speak out against the gross public immorality of our times and it is upon that basis that I oppose the bill. There can be no doubt that our society has become saturated with sex, the open public display of sexual activity in all its forms, so that our society has become decadent and corrupt and to a frightening degree

dominated by organized crime. It is foolish and futile to suppose that an activity such as public homosexual acts, public soliciting for either heterosexual or homosexual activity, public procuring for either of these activities or the general promoting of weird and extreme sexual practices can be divorced from the main stream of public and private life in our community. I do not know, so I cannot say, whether homosexuality is inherited or developed; whether one is born a homosexual or learns to be one. But I do know that there is a flood of music, books and magazines, video tapes and films that seems to me to have only one object—the promotion of extreme and immoral social activity throughout the entire community.

I believe also that the accentuating of sex has displaced many important non-sexual values in our society and created in a large section of our society—particularly the young—a feeling that they can do anything for kicks—anything at all that, to use the modern vernacular, turns us on. If this is so, it accounts for the widespread use of drugs and even thrill killings and rape. The Premier said that the bill gives public recognition to community standards. I believe that is nonsense. How can the Premier make that claim when there has never been a survey of public views on this matter that supports the decriminalization of homosexuality. The Premier is trying to create a community standard in this matter. In that I am sure he will fail, for the community will reject widespread public homosexuality, just as it rejects widespread public heterosexuality. The public outcry against pornography, prostitution, street violence, drugs and the general lack of law and order is certainly proof of that.

I shall deal with some of the provisions of the bill. It will abolish the offence of buggery but it does not stop there. It will also abolish, by the repeal of section 81A, the offence of committing any act of indecency in public—and I emphasize in public. Also, by the repeal of section 81B, it will abolish the offence of soliciting of male persons in a public place. If the bill is passed, no protection will be afforded to non-homosexual males against being solicited in the street, nor for decent people who are affronted by gross acts of indecency in public. Are the honourable members on both sides of this House who opposed the homosexual bills that were introduced into this House on three or four previous occasions prepared to accept that? Certainly the bill will increase the age of consent to eighteen, but is what is wrong at seventeen right at eighteen or vice versa? The bill will provide also a range of offences and severe penalties for certain homosexual activities, related mainly to young people and mentally deficient males. But will it prevent proselytizing of young people in schools and elsewhere? I suggest that it will not. That is a major factor in the growth of homosexual publications and activity in our community over recent times, just as it is of the widespread activity of heterosexual people who have encouraged all sorts of odd heterosexual actions in society over that period.

This is a dangerous and deceitful bill. It is a thinly disguised attempt to promote the further degradation of society. All those honourable members who opposed former bills of a similar nature should oppose this bill. It will do nothing for those homosexuals in our society who are prepared to keep their activities private. It will do everything for those who wish to degrade society for profit, who wish to promote extreme and unnatural sexuality of all kinds throughout the community, and who wish further to destabilize family life and debase our community standards. In that respect I strongly support what was said by the honourable member for Riverstone, who gave an articulate and well thought out exposition of his view of the bill. Honourable members are supposedly exercising a conscience vote. On this occasion they cannot hide behind a party directive. I remind all honourable members that the public and their own electorates will judge them on how they vote on the bill, for it is said to be a conscience vote. I urge honourable members to think carefully about what they do tonight. I suggest that they consider whether they are helping homosexuals by passing the bill or whether they are not.

I suggest to honourable members that if they think there is discrimination against homosexuals by reason of the penalties imposed for certain activities of homosexuals as opposed to the penalties for rape and so on, the proper course is to increase the penalties for rape, or sexual assault as it is now called, and so on. This bill is in essence no different from the bills that were rejected before in this House. Those who change their vote tonight have now no excuse that they did not have before for changing it. I should hope that for the sake of everyone, homosexuals included, the bill will again be rejected tonight. I oppose the bill and do so not on party lines but on a conscience vote after a full consideration of this sex-ridden society, which needs to be cleaned up by this Parliament.

Mr Petersen: I am sorry I said nice things about you.

Mr PEACOCKE: I am sure the honourable member is, but I say what I think and I am consistent in what I think. I might say to the honourable member for Illawarra that I resent being called a neo-fascist, as he called all members of the National Party earlier. I might call him a neo-communist. I might call him a deceitful man for espousing this cause for whatever political gain he thinks he can derive. I would suggest that he exercise a little more honesty in what he does in this House in respect of the bill. If he is true to his convictions, he will move amendments tonight, and will have lobbied his supporters in this House to get carried what he wanted in the last bill. Then the whole bill will be rejected.

Mr ARMSTRONG (Lachlan), Deputy Leader of the National Party [11.30]: For the fifth time since September 1981 in this Parliament I address remarks to the issue of homosexuality. Honourable members will be aware that this proposed legislation has been introduced by the Premier of New South Wales as a private member's bill. According to my research, the present Premier of New South Wales is the first Premier since 1856 to have introduced this type of legislation in this way. Further, in the first major piece of legislation introduced by the Premier in the Forty-eighth Parliament, the Premier has chosen to address the issue of homosexuality. I find that quite extraordinary. Moreover, the New South Wales Attorney General in the Forty-eighth Parliament has chosen to make what is effectively his maiden speech in the Legislative Assembly on the issue of homosexuality. The Attorney General, who came to this place from the other place, is being hailed as the heir apparent to the leadership of the parliamentary Labor Party. Let me examine the Government's priorities for New South Wales. It is apparent that the New South Wales Labor Government during the Forty-seventh Parliament and in the first weeks of the Forty-eighth Parliament has indicated its priorities. I shall recount to the House a record of the amount of time spent by the Forty-seventh Parliament on some of the issues that affect the everyday lives of the people of the State, some of the so-called important and popular issues that will affect this State and our lives in the future. In 1981–82 and 1982–83 the Parliament spent the grand total of five and three-quarter hours debating Aboriginal land rights.

Mr SPEAKER: Order! I hesitate to interrupt the honourable member when he is dealing with a matter of considerable importance, but he should be aware that the matter to which he is referring has no relevance to the bill before the House. It is not within the leave of the bill. The Honourable member must be relevant. I ask the honourable member to deal with matters relevant to the bill.

Mr ARMSTRONG: I am using these points about Aboriginal land rights, health, education and homosexuality to draw a comparison.

Mr SPEAKER: Order! The honourable member is canvassing my ruling. If he does not wish to speak to the bill, I shall ask him to resume his seat.

Mr ARMSTRONG: The Forty-seventh Parliament of New South Wales spent 26.5 hours on the issue of homosexuality, about 37.5 hours on education and 25.25 hours on health. That demonstrates priorities. The Government must address itself to to the future priorities for New South Wales. On the last four occasions when similar legislation came before the House most honourable members were lobbied by groups and individuals. Among those groups was the New South Wales Gay Teachers and Students Group. I refer the House to the latest literature that was posted to me from that group, called the *Gaytas Newsletter.* That document was sent to me by the New South Wales Gay Teachers and Students Group of Clarence Street, Sydney, relevant to the proposed legislation. I intend to quote from the document because of the possible effect that the implementation of this measure may have upon the New South Wales education system and public schools in the State. I quote the followinng extracts from the document:

> The announcement made by Mr Wran on Sunday 29th April is momentous. GAYTAS has adopted a position in support of full equality with heterosexuals—including an age of consent of 16. Because as teachers we have a responsibility to speak up for those young homosexuals who are students in New South Wales schools we put the following points, concerning particularly the age of consent, for your consideration.
>
> 1. Anything less than full equality with heterosexuals would be discriminatory.
>
> 2. Uniformity in the law across Australia would seem a sensible aim.
>
> 3. An age of consent of 16 does not increase the possibility of young men being preyed upon or exploited sexually. If this were the case the age of consent for young women should have long since been raised to 18 or higher.
>
> 4. An age of consent of 18 if brought into law would be a sign to 16 to 18 year-olds that homosexuals are not considered equal and this could have a detrimental emotional and psychological impact on a great many young gays involved in discovering and coming to terms with their sexuality.

That is the sort of thinking that is to be brought into the Parliament of New South Wales tonight if honourable members support the measure. The concept of homosexuality basically is objectionable, abnormal and anti-social. I have received objections from the old and young, males and females in the Lachlan electorate. On the various occasions on which this House has debated similar legislation the number of supporters for the legislation has run at between one and thirty. On this occasion, of 220 letters I have received, not one has asked me to support the passage of the legislation. Surely that is indicative of the feeling of the people of the State, or at least of the people of the Lachlan electorate. I say unequivocally, so that it might be recorded in *Hansard,* that as the member for Lachlan representing my constituents I believe that they wish me to vote against the proposed legislation in all its forms. My constituents include a cross-section of the socio-economic group in the community, a cross-section of intelligence.

I realize that it is late in the evening, but I should take time to point out to honourable members that decent people of New South Wales are disgusted that the number one citizen of the State, the man who holds the office of Premier, should seek to introduce this proposed legislation as a private member's bill. Homosexuality is an unnatural act. It is not possible to legislate to make people the same. Boys will be boys, and girls will be girls. As the father of a girl aged 22 and a boy aged 20, as a married man in a normal relationship with my first and only wife, for twenty-four years on

9th April, and as a man who has been able to control his passions over the years, I am totally opposed to any unnatural act such as that suggested by the proposed legislation.

Why must this legislation be compromised for a minority group in the community? That is certainly what is happening tonight. Why should this Parliament and the State of New South Wales spend so much time and expertise in dealing with the wants of a minority group who cannot fit in with the normal run of society? It comprises people who are basically social misfits. We acknowledge that the genuine ones do have a problem. I am not referring to those who are pseudo-homosexuals—those who are promoted because somebody wishes to promote a gay bar, a new gay fashion, or gay videos or a gay theatre. I am not referring to those who are being exploited by business people or those who make gay fashions. We have a certain amount of sympathy with genuine homosexual persons, whose numbers are infinitesimal in the community in comparison with normal people. I am proud to say, as is the National Party, that the bulk of people in New South Wales are normal and live in normal relationships. We do not think that this Parliament or this State should devote time to placating the wants of social misfits. My party and I support the concept of the family unit, of male and female marriage, of the production of children from the male and female unit.

Mr Quinn: You cannot get them any other way.

Mr ARMSTRONG: I thank that honourable member for his interjection. I ask him to consider the extension of this legislation to spouse rights—to the adoption of children in homosexual circumstances. Is he willing to accept that? That is what he and the Labor Party are being led into by the Premier of this State. I do not believe a referendum is necessary. I believe that the great majority of thinking people in this State—probably 99 per cent—know exactly where they stand. They will not have a bar of this legislation, which is being brought into placate a minority of the community who are social misfits. The question is, are we going to be legal or illegal, natural or unnatural? I and the constituents of Lachlan support the natural people of the State of New South Wales.

Question—That the words stand—put.

The House divided.

Ayes, 73

Mr Akister	Mr Collins	Mr Jackson
Mr Amery	Mr Cox	Mr Keane
Mr Anderson	Mr Crawford	Mr Kerr
Mr Aquilina	Mrs Crosio	Mr Knight
Mr Baird	Mr Davoren	Mr Knott
Mr Bannon	Mr Debus	Mr Knowles
Mr Beckroge	Mr Dowd	Mr Landa
Mr Bedford	Mr Face	Mr Langton
Mr J. D. Booth	Mr Fahey	Mr McCarthy
Mr K. G. Booth	Mr Ferguson	Mr McGowan
Mr Bowman	Mrs Foot	Mr McIlwaine
Mr Brereton	Mr Gabb	Mr Mack
Mr Carr	Mr Greiner	Mr Mair
Mr Cavalier	Mr Hatton	Dr Metherell
Mr Christie	Mr Hay	Mr Mochalski
Mr Cleary	Mr Hills	Mr H. F. Moore
Mr R. J. Clough	Mr Irwin	Mr Mulock

Mr J. H. Murray	Dr Refshauge	Mr Wilde
Mr Neilly	Mr Rogan	Mr Wran
Mr Paciullo	Mr Sheahan	Mr Yabsley
Mr Page	Mr Smiles	Mr Yeomans
Mr Petersen	Mr Stewart	
Mr Phillips	Mr Walker	*Tellers,*
Mr Price	Mr Walsh	Mr T. J. Moore
Mr Quinn	Mr Whelan	Mr Wade

Noes, 24

Mr Arkell	Mr Jeffery	Mr Webster
Mr Armstrong	Mr W. T. J. Murray	Mr West
Mr Beck	Mr Park	Mr Wotton
Mr Causley	Mr Peacocke	Mr Zammit
Mr J. A. Clough	Mr Pickard	
Mr Cruickshank	Mr Punch	
Mr Duncan	Mr Rozzoli	*Tellers,*
Mr Fisher	Mr Shipp	Mr Caterson
Mr Hunter	Mr Singleton	Mr Fischer

Question so resolved in the affirmative.

Amendment negatived.

Question—That this bill be now read a second time—proposed.

Mr WRAN (Bass Hill), Premier and Minister for the Arts [11.54], in reply: I thank honourable members who have taken part in the debate. By the standards of this House it has been a rather civilized occasion, marked, as one would expect, by some exaggerative language, and also, as one would expect, by some members either erroneously, in a misconceived way, or wilfully, drifting away from the subject matter of the bill. In view of some of the comments in the debate, such as that in particular from the honourable member for Dubbo, I regret to say that this measure will drag the moral code of this State into the gutter. It is worth while reminding the House what the bill is about. The principal objectives of the bill are to decriminalize sexual activity between consenting males of or over the age of 18 years, and to prohibit sexual intercourse or other homosexual acts by a male with a male who is under 18 years of age. I said in my second reading speech that the bill would not meet the imperatives of perfection, and attempts have been made by various members of the House, who no doubt are most skilled in the law, to point to various anomalies that will be created or are likely to be created. Let me say to those members that in my view some anomalies may be created but those anomalies, such as they are, will be and must be dealt with at some future time by this House in the form of a general review of the Crimes Act.

The Deputy Premier, in a very proper way, if I might say so, raised the question, as I understood what he was putting, whether by the abolition of the offence of buggery, buggery could, without penalty, take place in public. The simple situation is that copulation performed in public between a man and a woman amounts to scandalous conduct and is punishable by law. Those familiar with the law know that the sentence is indeterminate. In exactly the same way, sexual acts between a male and a male performed in public, or for that matter I would expect a female and a female performed in public, would equally amount to scandalous conduct and would be punishable by law. It is not the intention of this measure, I said at the outset in my

second reading speech, to do any more than to enshrine the principle that sexual activity between consenting males of or over the age of 18 years should be decriminalized.

I do not want to take up the time of the House to any great extent at this hour of the night. However, there are one or two matters I should respond to. More than one of the opponents of this bill have said that after, I think the third repection in the last Parliament of measures relating to homosexual law reform, I commented that I did not think there would be a further attempt to reform the law. I probably did say that. I probably said it in the context of the Forty-Seventh Parliament. This is a new Parliament. As I commented very soon after this Parliament was reconstituted and the Government was returned, I hoped that this the Forty-Eighth Parliament of New South Wales would be a somewhat more adventurous Parliament than the previous Parliament proved to be. I make no apology either to the House or to anyone else for the fact that I perceived a different mood in the House and among members of the public in relation to the matter of homosexual law reform.

The honourable member for Lachlan talked about my priorities. Though I know he would like to be at all of my press conferences, it is a great pity that he was not present when I was interviewed on my return from overseas. Those members of the news media who were present would attest to the fact that I outlined a whole range of important matters that I thought should be dealt with by this Parliament. They related to the bicentennial celebrations of our country, and the participation of Sydney and New South Wales; the role that the redevelopment of Darling Harbour would play in the bicentennial celebrations; the role of tourism in job creation in New South Wales; the establishment of a tourist authority; the amendment to the Listening Devices Act; the introduction of a bill to establish a commissioner of public complaints; and the matter of homosexual law reform. The media chose, I suppose for obvious reasons, to highlight the matter of homosexual law reform from a catalogue of matter that I considered to be important to the Government, to the Parliament and to the public.

I do not understand the comments of the member for The Hills that the measure has been dealt with in haste. In what has proved to be a rather civilized treatment of the issue but, if I might say so, a rather tedious and tiring treatment at the same time, every member of this House who has wished to speak on the measure has had the opportunity to do so. In addition, the measure is not one that has been sprung on the House. Even at the second reading stage, contrary to the practice, there was a printed bill available for the perusal by each member of the House. I repeat, each member who wished to speak on this occasion has had the opportunity to do so. I hope that during the Committee stage honourable members will maintain the same rational and civilized approach—with one or two exceptions from whom we expect no civility and no rationality—as honourable members were able to maintain during the second reading stage.

I refer to one matter that occurred during the course of debate tonight. I refer to it because I see the Reverend Fred Nile sitting in the precincts of this House. He is attributed with urging people to demonstrate outside my house. Lest he be tempted to take that course in the future, I should like him to know that it is an abuse of the privileges of a member of Parliament to urge others to intimidate a member of Parliament, whether it be in Parliament or outside Parliament. Quite apart from the question of that abuse of my privilege as a member of Parliament, I think it is disgraceful for someone who claims to be a subscriber to the clergy and the cloth to urge people to misbehave themselves and to endeavour to intimidate a member of Parliament in the course of his or her duties. I shall say no more about that on this occasion. However, if the Reverend Fred Nile again feels tempted to urge people to

demonstrate outside my house and thereby attempts to intimidate me in the course of my duties as a member of Parliament, the bar of the House will be here and I will have no compunction whatsoever in showing him up for the hypocrite he is.

[*Interruption*]

Mr SPEAKER: Order!

Mr WRAN: Several members have adverted to the question of homosexual acts performed in private, and one or more members have criticized the Leader of the Opposition in relation to his expression that politics, the law, and the police should be kept out of the bedroom. The honourable member for The Hills endeavoured to encapsulate that criticism, not only of the Leader of the Opposition but of this measure, by asserting that this bill has nothing to do with acts in private; that acts performed in bedrooms or in hotel rooms were not the subject of the law as it stood at the present time. That is just nonsense. Any honourable member having an acquaintance with the law would know that to be nonsense.

I deplore the irrelevancies introduced, particularly by members of the National Party and the Leader of the National Party, about matters such as homosexual marriage, homosexual divorce, and adoption by homosexual parents, and so on. The matter of teachers encouraging children to experiment in homosexual practices was mentioned. Those assertions are the product of a sick mind. The reality is, I repeat, that this bill deals with the decriminalization of sexual activity between consenting males of or over the age of 18 years. As I said at the second reading stage, my perception is that the majority of members of this House will support that principle and will support that concept as it is contained in the bill.

The opponents of this bill, as we have heard them trot out their various arguments in the House today, have ignored the oppression of homosexuals that exists in the community. They have ignored the injustice. They have ignored the blackmail and potential blackmail. They have ignored the discrimination that exists. Perhaps most of all, they have ignored the very incidence of homosexuals in our community. I do not want to traverse fields that have already been well tilled here today, but this bill does not represent a great leap forward. As I have said before, it is a modest reform, a small step towards a more humane and compassionate approach to homosexuals in New South Wales. I ask those honourable members who speak of degradation, those who speak of dragging the moral code into the gutter, and those who take the view that this will further saturate our society with sex, where do they find those circumstances or those parallels in the State of Victoria, the State of South Australia, the Australian Capital Territory or the Northern Territory? What is it among the men and women of New South Wales that puts us apart from the rest of Australia and the rest of Australians? No circumstance or fact or statistic was pointed to. Rather, the opponents of the bill trotted out the rather tired arguments about values of decent people. I do not know that those who oppose this bill are really behaving like decent people or exhibiting the values of decent people. Of course the overwhelming majority of people in our community support the family and the family unit. Of course most people would want to regard themselves as decent people. However, the expression decent people should not be abused by using it as a vehicle for prejudice against a highly oppressed minority in our community.

I conclude the few remarks that I wish to make by asserting that, unlike the honourable member for Eastwood, who sees nations such as France, Italy and Ireland having gone down the gurglehole of history because of their sexual practices, there is no reason why any sober-minded, upright, Christian member of this House should fear this very small step forward into the twentieth century. I urge honourable members

to let this measure proceed, as I think it should, now that we have come so far. We should let this measure proceed to finality with as much lucidity as possible in remarks made in the Committee stage, with as much relevance as we are able to muster, and as little exaggeration as possible, but with an eye to the fact that the obvious feeling and view of the majority of members is that the time has come for change and this day, this night and tomorrow morning will reflect that.

Question—That this bill be now read a second time—put.

The House divided.

Ayes, 62

Mr Akister	Mr Ferguson	Mr Neilly
Mr Anderson	Mrs Foot	Mr Paciullo
Mr Aquilina	Mr Gabb	Mr Page
Mr Baird	Mr Greiner	Mr Petersen
Mr Beckroge	Mr Hatton	Mr Phillips
Mr Bedford	Mr Hay	Mr Price
Mr J. D. Booth	Mr Hills	Mr Quinn
Mr K. G. Booth	Mr Irwin	Dr Refshauge
Mr Bowman	Mr Jackson	Mr Rogan
Mr Brereton	Mr Keane	Mr Sheahan
Mr Carr	Mr Knight	Mr Smiles
Mr Cavalier	Mr Knott	Mr Stewart
Mr Cleary	Mr Landa	Mr Walker
Mr Collins	Mr Langton	Mr Walsh
Mr Cox	Mr McCarthy	Mr Whelan
Mr Crawford	Mr McGowan	Mr Wran
Mrs Crosio	Mr McIlwaine	Mr Yabsley
Mr Debus	Mr Mack	Mr Yeomans
Mr Dowd	Dr Metherell	*Tellers,*
Mr Face	Mr Mulock	Mr T. J. Moore
Mr Fahey	Mr J. H. Murray	Mr Wade

Noes, 35

Mr Amery	Mr Fisher	Mr Punch
Mr Arkell	Mr Hunter	Mr Rozzoli
Mr Armstrong	Mr Jeffery	Mr Schipp
Mr Bannon	Mr Kerr	Mr Singleton
Mr Beck	Mr Knowles	Mr Webster
Mr Causley	Mr Mair	Mr West
Mr Christie	Mr Mochalski	Mr Wilde
Mr J. A. Clough	Mr H. F. Moore	Mr Wotton
Mr R. J. Clough	Mr W. T. J. Murray	Mr Zammit
Mr Cruickshank	Mr Park	*Tellers,*
Mr Davoren	Mr Peacocke	Mr Caterson
Mr Duncan	Mr Pickard	Mr Fischer

Question so resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

The CHAIRMAN: Order! I direct the attention of the Committee to the provisions of Standing Order 142A, which provides that in Committee of the Whole any member other than the Minister, a party leader, or one member deputed by the leader may speak for three periods each on any one question. The first occasion is not to exceed twenty minutes, and subsequent occasions are not to exceed ten minutes. Thus, in this bill, such members may move a maximum of three amendments to schedule 1. Members desiring to move a greater number of amendments may request a fellow member to move the desired amendments on their behalf. Such members may each speak to each amendment for the maximum of three occasions. Standing Order 142A does not provide for extensions in Committee of either the periods upon which a member may speak on any one question, or the time limits of such periods.

Clause 1

[Short title]

Question—That the clause stand—put.

The Committee divided.

Ayes, 63

Mr Akister	Mr Gabb	Mr Page
Mr Anderson	Mr Greiner	Mr Petersen
Mr Aquilina	Mr Hatton	Mr Phillips
Mr Baird	Mr Hay	Mr Price
Mr Beckroge	Mr Hills	Mr Quinn
Mr Bedford	Mr Hunter	Dr Refshauge
Mr J. D. Booth	Mr Irwin	Mr Rogan
Mr K. G. Booth	Mr Jackson	Mr Sheahan
Mr Bowman	Mr Keane	Mr Smiles
Mr Brereton	Mr Knight	Mr Stewart
Mr Carr	Mr Knott	Mr Walker
Mr Cavalier	Mr Landa	Mr Walsh
Mr Cleary	Mr Langton	Mr Whelan
Mr Collins	Mr McCarthy	Mr Wilde
Mr Cox	Mr McGowan	Mr Wran
Mr Crawford	Mr McIlwaine	Mr Yabsley
Mrs Crosio	Mr Mack	Mr Yeomans
Mr Debus	Dr Metherell	
Mr Dowd	Mr Mulock	
Mr Fahey	Mr J. H. Murray	*Tellers,*
Mr Ferguson	Mr Neilly	Mr T. J. Moore
Mrs Foot	Mr Paciullo	Mr Wade

Noes, 33

Mr Amery	Mr R. J. Clough	Mr Mair
Mr Arkell	Mr Cruickshank	Mr Mochalski
Mr Armstrong	Mr Davoren	Mr H. F. Moore
Mr Bannon	Mr Duncan	Mr W. T. J. Murray
Mr Beck	Mr Fisher	Mr Park
Mr Causley	Mr Jeffery	Mr Peacocke
Mr Christie	Mr Kerr	Mr Pickard
Mr J. A. Clough	Mr Knowles	Mr Punch

Mr Rozzoli	Mr West	*Tellers,*
Mr Schipp	Mr Wotton	Mr Caterson
Mr Singleton	Mr Zammit	Mr Fischer
Mr Webster		

Question so resolved in the affirmative.

Clause agreed to.

Clause 2

[Commencement.]

Question—That the clause stand—put.

The Committee divided.

Ayes, 69

Mr Akister	Mrs Foot	Mr Neilly
Mr Anderson	Mr Gabb	Mr Paciullo
Mr Aquilina	Mr Greiner	Mr Page
Mr Baird	Mr Hatton	Mr Petersen
Mr Beckroge	Mr Hay	Mr Phillips
Mr Bedford	Mr Hills	Mr Price
Mr J. D. Booth	Mr Hunter	Mr Quinn
Mr K. G. Booth	Mr Irwin	Dr Refshauge
Mr Bowman	Mr Jackson	Mr Rogan
Mr Brereton	Mr Keane	Mr Sheahan
Mr Carr	Mr Kerr	Mr Smiles
Mr Cavalier	Mr Knight	Mr Stewart
Mr Christie	Mr Knott	Mr Walker
Mr Cleary	Mr Knowles	Mr Walsh
Mr R. J. Clough	Mr Landa	Mr Whelan
Mr Collins	Mr Langton	Mr Wilde
Mr Cox	Mr McCarthy	Mr Wran
Mr Crawford	Mr McGowan	Mr Yabsley
Mrs Crosio	Mr McIlwaine	Mr Yeomans
Mr Davoren	Mr Mack	
Mr Debus	Dr Metherell	
Mr Dowd	Mr H. F. Moore	*Tellers,*
Mr Fahey	Mr Mulock	Mr T. J. Moore
Mr Ferguson	Mr J. H. Murray	Mr Wade

Noes, 27

Mr Amery	Mr Jeffery	Mr Singleton
Mr Arkell	Mr Mair	Mr Webster
Mr Armstrong	Mr Mochalski	Mr West
Mr Bannon	Mr W. T. J. Murray	Mr Wotton
Mr Beck	Mr Park	Mr Zammit
Mr Causley	Mr Peacocke	
Mr J. A. Clough	Mr Pickard	
Mr Cruickshank	Mr Punch	*Tellers,*
Mr Duncan	Mr Rozzoli	Mr Caterson
Mr Fisher	Mr Schipp	Mr Fischer

Question so resolved in the affirmative.

Clause agreed to.

Clause 3

[Amendment of Act No. 40, 1900]

Question—That the clause stand—put.

The Committee divided.

Ayes, 65

Mr Akister	Mr Ferguson	Mr J. H. Murray
Mr Anderson	Mrs Foot	Mr Neilly
Mr Aquilina	Mr Gabb	Mr Paciullo
Mr Baird	Mr Greiner	Mr Page
Mr Beckroge	Mr Hatton	Mr Petersen
Mr Bedford	Mr Hay	Mr Phillips
Mr J. D. Booth	Mr Hills	Mr Price
Mr K. G. Booth	Mr Irwin	Mr Quinn
Mr Bowman	Mr Jackson	Dr Refshauge
Mr Brereton	Mr Keane	Mr Rogan
Mr Carr	Mr Kerr	Mr Sheahan
Mr Cavalier	Mr Knight	Mr Smiles
Mr Cleary	Mr Knott	Mr Stewart
Mr R. J. Clough	Mr Landa	Mr Walker
Mr Collins	Mr Langton	Mr Walsh
Mr Cox	Mr McCarthy	Mr Whelan
Mr Crawford	Mr McGowan	Mr Wran
Mrs Crosio	Mr McIlwaine	Mr Yabsley
Mr Davoren	Mr Mack	Mr Yeomans
Mr Debus	Dr Metherell	*Tellers,*
Mr Dowd	Mr H. F. Moore	Mr T. J. Moore
Mr Fahey	Mr Mulock	Mr Wade

Noes, 31

Mr Amery	Mr Hunter	Mr Schipp
Mr Arkell	Mr Jeffery	Mr Singleton
Mr Armstrong	Mr Knowles	Mr Webster
Mr Bannon	Mr Mair	Mr West
Mr Beck	Mr Mochalski	Mr Wilde
Mr Causley	Mr W. T. J. Murray	Mr Wotton
Mr Christie	Mr Park	Mr Zammit
Mr J. A. Clough	Mr Peacocke	
Mr Cruickshank	Mr Pickard	*Tellers,*
Mr Duncan	Mr Punch	Mr Caterson
Mr Fisher	Mr Rozzoli	Mr Fischer

Question so resolved in the affirmative.

Clause agreed to.

Schedule 1

Mr DOWD (Lane Cove) [12.42 a.m.]: I move:

That at page 3, all words after "knowledge" on line 14 down to and including "connection" on line 16 be left out and there be inserted in lieu thereof the words "means sexual intercourse".

In 1962 the Government, quite correctly, moved away from the nineteenth century attitude towards sexual matters. Although at the time I disagreed with the extent of the penalties, the Government correctly removed the concept of rape, that it was penetration per the vagina, and included in the definition of sexual intercourse all the reasonable range of sexual activities that occur between male and female. It was an absurdity to have the restriction up until then. The Government quite correctly corrected that situation. As I said when I spoke on the amendment at that stage, the Government did leave the anomaly of the definition of carnal knowledge. Carnal knowledge is used throughout the Crimes Act in a large number of sections. The definition, of course, comes within section 62. In fact it does not constitute in strict terms a definition.

It must be remembered that the Crimes Act does not constitute a code but constitutes an Act grafted onto the common law. I have circulated two amendments, which are alternative. I will move also the first amendment, because I only get two goes. I do not propose to call for a division. I merely want to seriously urge all members to consider the matter. If some other member wants to call a division, that is a matter for him or her. The purpose of the amendment takes account of the fact that carnal knowledge is used right throughout that section of the Crimes Act that deals with carnal knowledge of a female under the age of sixteen. It deals with carnal knowledge by a teacher and carnal knowledge of an idiot or imbecile. It deals with carnal knowledge of children under ten; females under ten; females between ten and sixteen; and it deals with incest.

The definition as proposed by the Premier in this bill increases from penetration per vagina to penetration per vagina and per anus. This leaves an anomalous situation. Whereas the rest of the Crimes Act provisions cover sexual intercourse in all those matters covered in section 62, if members will remember, it covers a penetration of the body by another person; it covers all the sexual activities. It is, in fact, artificial in the extreme to create an offence that deals with penetration per vagina and per anus only. It is therefore in my view correct, in terms of this amendment, recognizing the Government has an obligation, to correct a whole series of anomalies in the Crimes Act that arise because of the various amendments. It is correct to bring carnal knowledge into line with the definition of sexual intercourse, because carnal knowledge ought to mean that. There is an offence covered in the Crimes Act that covers acts of indecency towards a person under the age of sixteen years. If it is an act of oral intercourse, fellatio, on a 5-year-old child, the penalty of two years is absurdly low. It should be dealt with as carnal knowledge as such. For those reasons I move the amendment, which brings in the definition already incorporated into the Crimes Act by section 61A.

Mr WRAN (Bass Hill), Premier and Minister for the Arts [12.46 a.m.]: I reject the amendment. This amendment would gender neutralize carnal knowledge as defined at present. It would widen carnal knowledge to include penetration with objects and cunnilingus of a female by a female, and would require substantial other amendments to the carnal knowledge provisions. That is not appropriate in this bill. To the extent that, as the honourable member for Lane Cove has pointed out, there are a series of anomalies in the Crimes Act, this bill will not create anomalies. Indeed, to adopt this wider definition now would have the effect of creating further and wider anomalies. I intimate to the honourable member for Lane Cove that I think there is a case, not only in regard to these particular provisions of the Crimes Act but also in regard to the Crimes Act generally, for an early revision of the penalty provisions and some of the definition provisions. I am certain that, as the Attorney General is in the House, he will have taken those matters on board. I have already had some discussion

with the Attorney General as to some of the obvious anomalies that are contained within the four corners of the Crimes Act. I repeat that I consider this proposed amendment would create further and wider anomalies. Therefore the amendment is not acceptable.

Amendment negatived.

Mr PETERSEN (Illawarra) [12.48 a.m.]: I move:

That at page 3, all words on lines 20 to 27 be left out and there be inserted in lieu thereof the words

78G. In section 78H to 78O "homosexual intercourse" means sexual connection occasioned by the penetration of the anus of any male person by the penis of any person, or the continuation of that sexual connection.

The purpose of my amendment is to remove fellatio from the definition of sexual intercourse, an offence that carries a penalty of ten years. Basically my reason for moving the amendment is that by this bill the penalty for fellatio with a person under the age of eighteen will be increased five times. I emphasize that it is neither the intent nor the effect of this amendment to legalize the act of fellatio with males under the age of consent. That act will remain an offence as a result of the amendment. The amendment will simply remove from fellatio the definition of homosexual intercourse, leaving it where it now is covered by the law on acts of indecency. It is necessary to point this out to the Committee, because if this amendment is not adopted, we will have created another anomaly in the rape and sexual assault laws. Under those laws the maximum penalty for this act when it occurs without consent is four years' imprisonment, or six years if the person is under 16 years of age. The penalty provided in this bill for an offence committed with consent will be ten years' imprisonment, five times the penalty under the present legislation. I refer honourable members to section 81A, which reads:

Whosoever, being a male person, in public or private, commits, or is a party to the commission of, or procures or attempts to procure the commisison by any male person of, any act of indecency with another male person shall be liable to imprisonment for two years.

Honourable members should note that the penalty is imprisonment for two years. In respect of an offence committed with a person under the age of 16 years, s. 61E (2) provides:

Any person who commits an act of indecency with or towards a person under the age of 16 years, or incites a person under that age to an act of indecency with that or another person, shall be liable to imprisonment for 2 years.

CHAIRMAN: Order! There is far too much audible conversation in the Chamber.

Mr PETERSEN: If this amendment were adopted, it would mean that fellatio would continue to be an offence carrying a penalty of two years' imprisonment as provided in proposed new section 78Q, which reads:

Any male person who commits, or is a party to the commission of, an act of gross indecency with a male person under the age of 18 years shall be liable to imprisonment for 2 years.

It appears that the position may be reached where the penalty would be two years' imprisonment for someone under the age of 16 years and ten years for someone between 16 and 18 years. The position is unclear. I can see no reason why this Act,

and this Act alone, should, as a result of this bill, have its maximum penalty for fellatio with a male under the age of 18 years increased five times. Why should it carry five times the equivalent penalty for a similar heterosexual offence? The effect of the amendment would not be to remove this offence from the statute books where a person under the age of consent is involved. The amendment would do one thing only: it would restore the law to the present position that exists pursuant to section 81A of the Act that is to be repealed. I cannot understand why Parliament should go out of its way to increase the penalty five times for an offence provided for under the present legislation, in a liberalizing bill of this type. As the Premier has said, anomalies can be picked up later, but this is one anomaly that can and should be rectified now. To increase a penalty five times is beyond the objects of this bill and is outside its scope.

Mr WRAN (Bass Hill), Premier and Minister for the Arts [12.55 a.m.]: The amendment is not acceptable. I remind honourable members that the House is dealing with a bill that will decriminalize sexual activity between consenting males of or over the age of 18 years. The amendment moved by the honourable member for Illawarra seeks to omit oral intercourse from the definition of homosexual intercourse in proposed section 78G as it is defined for the purposes of proposed section 78H and subsequent sections. To limit the definition in the way suggested by the honourable member for Illawarra would to some extent defeat the purposes of the bill in relation to young persons where young persons are involved with others in homosexual activity not amounting to anal intercourse. The South Australian Act includes oral intercourse, but in fairness to the view put by the honourable member for Illawarra, I inform the House that the South Australian Act applies equally to females as well as males. Though anal intercourse is included in the present series of amendments in the definition of carnal knowledge, oral intercourse is not. Obviously that causes some concern in terms of gender neutrality. I repeat, I am not seeking the imperatives of perfection with this bill, but rather the establishment of a principle. Anomalies of the kind referred to by the honourable member can be reviewed by the Attorney General in a general criminal law review.

Question—That the words stand—put.

The Committee divided.

Ayes, 56

Mr Akister	Mr Davoren	Mr Mulock
Mr Amery	Mr Dowd	Mr J. H. Murray
Mr Anderson	Mr Duncan	Mr Neilly
Mr Aquilina	Mr Fahey	Mr Paciullo
Mr Arkell	Mrs Foot	Mr Phillips
Mr Baird	Mr Greiner	Mr Price
Mr Bannon	Mr Hay	Mr Quinn
Mr Beckroge	Mr Hills	Mr Rogan
Mr Bedford	Mr Hunter	Mr Sheahan
Mr J. D. Booth	Mr Jackson	Mr Stewart
Mr K. G. Booth	Mr Kerr	Mr Walsh
Mr Brereton	Mr Knowles	Mr Whelan
Mr Carr	Mr Langton	Mr Wilde
Mr Christie	Mr McCarthy	Mr Wran
Mr Cleary	Mr McIlwaine	Mr Yabsley
Mr R. J. Clough	Mr Mack	Mr Yeomans
Mr Collins	Mr Mair	*Tellers,*
Mr Cox	Dr Metherell	Mr T. J. Moore
Mrs Crosio	Mr H. F. Moore	Mr Wade

Noes, 18

Mr Bowman	Mr Keane	Mr Smiles
Mr Cavalier	Mr Knight	Mr Walker
Mr Crawford	Mr Knott	
Mr Debus	Mr Landa	
Mr Ferguson	Mr Page	*Tellers,*
Mr Hatton	Mr Petersen	Mr Gabb
Mr Irwin	Dr Refshauge	Mr McGowan

Question so resolved in the affirmative.

Amendment negatived.

Mr PETERSEN (Illawarra) [1.5 a.m.]: I move:

That at page 4, line 18, the word "18" be left out and there be inserted in lieu thereof the word "16".

In the document I have given to you, Mr Chairman, you will note that there are seven amendments, all on much the same lines. I indicate that in the event of my not being successful with this amendment it is not my intention to proceed with the other six amendments. This amendment deals with the core of the bill, the question of why it does not give complete equality to heterosexuals and homosexuals. It does not give complete equality because members have succumbed to pressures for an age of eighteen instead of sixteen. The ages at which certain responsibilities may be attained vary according to whether it is attendance at school, commercial transactions, medical attention, the right to vote, marriage, employment, sexual relationships, criminal responsibilities, drivers' licences or financial responsibilities. The decision whether ages of consent or responsibility apply is arbitrary.

I do not think one word of argument has been addressed to justifying the age of eighteen instead of sixteen. The biggest anomaly of all is that there is no age of consent for males engaged in heterosexual behaviour. If one takes the case, for example, of a 15-year-old boy seduced by a 19-year-old girl, neither has committed any offence. On the other hand, a 19-year-old boy who seduces a 15-year-old girl is guilty of carnal knowledge and the girl is guilty of being exposed to moral danger. I submit that though the age of consent is hardly a justifiable proposition, if it is there, as I said in my second reading speech on the bill, the same conditions should apply to homosexual consent as to female heterosexual consent or true equality does not exist. The least honourable members should do is adopt the age of sixteen to bring the age of consent for homosexuality into line with the age at which females can legally give consent to heterosexual intercourse.

Mr WRAN (Bass Hill), Premier [1.7 a.m.]: The amendment is not acceptable. I said in my second reading speech that there would be those with conviction, and some may think considerable logic, who urge that as with females, the age of consent for a male should be sixteen. As the honourable member for Illawarra has said, the age of eighteen specified in the bill presented to the House is a matter that goes to the core of the bill. The principle inherent in the bill is that sexual activity between consenting males of or over the age of eighteen should be decriminalized. Therefore, I am constrained to reject the amendment.

Amendment negatived.

Mr CRAWFORD (Balmain) [1.9 a.m.]: I move:

That at page 5, line 6, after the words "10 years", there be inserted the words

or, if the secondmentioned person is of or above the age of 16 years, to penal servitude for 5 years.

I intend to call for a division on the amendment. I foreshadow a second amendment. I shall move:

That at page 5, line 13, after the words "5 years", there be inserted the words

or, if the secondmentioned person is of or above the age of 16 years, to penal servitude for 2 years.

The foreshadowed amendment will lapse if the first amendment I have proposed is not accepted. The purpose of the proposed amendment is to adjust the penalties for homosexual intercourse with males aged 16 and 17. It does not repeal any offence. As introduced, the penalty for consenting homosexual intercourse with persons aged 16 and 17 years will be ten years, whereas the penalty for the same sexual act with males, without consent—that is rape—under proposed section 61D is only seven years. The anomalous situation will exist of a more serious penalty being imposed for consenting acts than for non-consenting acts of this type. The purpose of the amendment is to correct that anomaly and to provide a more realistic and rational penalty structure.

Mr WRAN (Bass Hill), Premier and Minister for the Arts [1.10 a.m.]: As the honourable member for Balmain said, the proposed amendment to section 78K seeks to reduce the penalty from ten to five years if one party is between the ages of 16 and 17 years. The reality is that this proposal would not parallel the carnal knowledge provisions. It would create a separate offence for persons between the ages of 16 and 18 years, in relation to penalties. I believe that it would confuse the issue by lowering penalties for a specific category of cases. To the extent, if at all, that there is the inconsistency to which the honourable member referred, it is my view that that anomaly or inconsistency should be dealt with under the umbrella of a general review of the Crimes Act. I make the same observations in regard to the foreshadowed amendment to section 78L, which is consequential upon the amendment to section 78K and relates to attempts.

Question—That the words be inserted—put.

The Committee divided.

Ayes, 17

Mr Bowman	Mr Keane	Dr Refshauge
Mr Cavalier	Mr Knight	Mr Smiles
Mr Crawford	Mr Knott	Mr Walker
Mr Debus	Mr Landa	*Tellers,*
Mr Ferguson	Mr Page	Mr Gabb
Mr Irwin	Mr Petersen	Mr McGowan

Noes, 58

Mr Akister	Mr J. D. Booth	Mrs Crosio
Mr Amery	Mr K. G. Booth	Mr Davoren
Mr Anderson	Mr Brereton	Mr Dowd
Mr Aquilina	Mr Carr	Mr Duncan
Mr Arkell	Mr Christie	Mr Fahey
Mr Baird	Mr Cleary	Mrs Foot
Mr Bannon	Mr R. J. Clough	Mr Greiner
Mr Beckroge	Mr Collins	Mr Hatton
Mr Bedford	Mr Cox	Mr Hay

Mr Hills	Mr H. F. Moore	Mr Walsh
Mr Hunter	Mr Mulock	Mr Whelan
Mr Jackson	Mr J. H. Murray	Mr Wilde
Mr Kerr	Mr Neilly	Mr Wran
Mr Knowles	Mr Paciullo	Mr Yabsley
Mr Langton	Mr Phillips	Mr Yeomans
Mr McCarthy	Mr Price	Mr Zammit
Mr McIlwaine	Mr Quinn	
Mr Mack	Mr Rogan	*Tellers,*
Mr Mair	Mr Sheahan	Mr T. J. Moore
Dr Metherell	Mr Stewart	Mr Wade

Question so resolved in the negative.

Amendment negatived.

Mr YEOMANS (Hurstville) [1.20 a.m.]: I move:

That at page 6, after line 10, there be inserted the words

(2) Any person who advises, solicits, incites, procures, counsels, encourages or persuades or attempts to procure or persuade a male person under the age of 18 years to have homosexual intercourse or commit acts of gross indecency with any other male person shall be liable to penal servitude for 2 years.

Mr Walker: *Ejusdem generis.*

Mr YEOMANS: There are certain conventions which it is usual for a member to follow in making his maiden speech. However, because of the nature of this bill and my conviction that an amendment should be moved to this legislation, I shall not be following those conventions; although I hope that during the budget session I shall take that opportunity. The purpose of this amendment is to cover what I believe are significant omissions from the bill. Principle 2 of the Declaration of the Right of the Child passed unanimously at the United Nations in 1959, declares:

> The child shall enjoy special protection and shall be given opportunities and facilities by law and other means to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose the best interests of the child shall be the paramount consideration.

That unanimous declaration was obviously signed by Australia. Under New South Wales law a child is a person under eighteen years of age. It is therefore incumbent on this Parliament to grant such protection to adolescents in particular, who are often ambivalent about their sexuality during the stage of puberty—protection from those who would seek to encourage them towards a homosexual lifestyle. Indeed, as I have spoken to people in my electorate and elsewhere, both those who consider themselves Christians and those who do not, I have found that the real concern people have is in this area.

As it is mandatory under the law for parents to send their children to schools where those parents have no direct control over what teachers and others may promote, particularly in terms of sex education and advice from counsellors, it is imperative that parents be given reassurance under clear legislation that their children will be protected from those who advocate a deviant lifestyle. However, the amendment would cover more than just schools. It would cover any person in any place, but particularly those given authority and responsibility over the young who might seek to use that

position to encourage children to adopt a homosexual lifestyle or to experiment with a deviant lifestyle. For example, the amendment would protect children in youth and community homes and institutions and safeguard against such advice from psychologists, doctors and those in related fields. It would also cover homosexual activists who disseminate their literature among children with the aim of persuading them to adopt homosexual sexual practices. Unless honourable members consider sodomy to be desirable or acceptable, they should support the amendment. Those who reject this amendment are effectively condoning the promotion of homosexual acts as socially acceptable.

My amendment is an appropriate legislative response, although I see it being limited by the ambit of the bill. Further action is required. We need a tightening of laws on pornography, including homosexual pornography, so that sex outside marriage is not made the idol which the media currently make it. As indicated in the report of the Ethics and Social Questions Committee of the Anglican Diocese of Sydney, the Government needs to provide proper counselling and assistance for those who have a social homosexual disposition. Sex education in schools must include not just an explanation of the physical facts, but also a moral framework for it. Indeed, since it would appear in the majority of cases that homosexuality as well as other social and emotional problems develop as a result of poor family relationships, it is time that the basics of education became not the three but the four Rs: reading, writing, arithmetic and relationships, so that young people are properly prepared for marriage and parenthood and the family, which is fundamental to our society, is given the support it deserves. I wish finally to take the opportunity as a Christian of addressing myself to those who consider themselves Christian and vehemently oppose the bill. Homosexual acts are a perversion of true sexual expression but they are symptoms rather than the cause of a far greater problem. According to the apostle Paul, that cause is idolatry which in our society takes the form of hedonism—that is, an obsessive pursuit of pleasure. Sodomy is one of God's judgments on the whole of society for that idolatry. Furthermore, sodomy itself carries its own penalty, quite apart from man-made laws. Thus, scripture is verified as we witness the spread of VD, herpes, AIDS and hepatitis. God is not mocked, for whatever a man sows that he will also reap.

The current legislation on buggery is not an appropriate response to this problem. Indeed, I am certain that AIDS has done more to discourage sodomy than any Act of Parliament. Furthermore, the existing law is inappropriate, as is pointed out by the Anglican report to which I have already referred, because it requires invasion of privacy if it is to be genuinely enforced and, in addition, the penalties are anomalous. The report also points out the problem of sending people guilty of the act of buggery to prisons which are known to be the hot bed of sodomy. If society is not prepared to enforce its laws, a mockery is made of these laws. Though Christians must oppose homosexual practice and the promotion thereof, they must avoid an irrational fear of homosexuals and accept them with compassion so that they do not need to seek a sense of belonging in communities in such places as Oxford Street, which only exacerbate the problems such persons have in dealing with their sexuality. Ultimately, government is limited in legislating for morality. It is primarily the responsiblity of Christians, by word and deed, to evidence the fact that love, joy, true fulfilment and right morality are the fruit of a right relationship with God. While this Parliament has a responsibility to ensure that laws are just and reasonable so that minorities like homosexuals are not persecuted by an Act, which I have yet to hear even the most conservative person suggest should be enforced regardless of the cost to personal freedom and privacy, I believe it has an even more onerous responsibility. The young must be given every opportunity to develop "in a normal manner"—the words of the United Nations declaration to which I have already referred. In this context normal must refer to normal sexuality—that is, heterosexuality.

My amendment seeks to uphold the right of the child to develop his sexuality free from abnormal sexual influence. If my amendment is passed, this Parliament will have done its duty in removing a bad law and replacing it with a better one that will both remove an anomaly and provide responsible protection for children. However, if the Parliament fails to pass the amendment, it will do so against the will of the vast majority of the population but, even more important, members of the Parliament will be guilty of dereliction of their duty to protect children whose values and philosophies will determine the success of society as they become the next generation of adults who must lead that society. This amendment, though limited in what it may achieve if passed, provides each honourable member with a test as to whether this society should be based on a heterosexual family philosophy or a philosophy that considers a heterosexual family base as of no more importance for the future than a homosexual one; that is, a moral vacuum. To exist society must have a consensus on basic issues such as this. Honourable members are being given an opportunity to support the heterosexual family consensus by supporting the amendment. I commend the amendment to the Committee.

Mr LANDA (Peats), Attorney General [1.31 a.m.]: I oppose the amendment. I urge honourable members to take a moment or two to consider what they are being asked to do. Very few sections of criminal codes of enlightened societies seek to strike down the mere expression of some thought or belief and provide a penalty where the only act committed by a person was his saying something—that is, the right to express a point of view which may be at variance with that of the great majority of society but which at its very worst represents a citizen saying what he believes. The reason that that sort of provision is disappearing from criminal codes is related, first, to a few cardinal beliefs in free speech, which I am sure many honourable members have, and, second, to the fact that criminal courts are there to protect society from the more serious activities with which its members are confronted—those that are so anti-social as to represent such a threat to society that criminal sanctions are warranted.

Is it really suggested that the Committee should divide on this amendment that seeks to place in prison a person who advises or attempts to persuade a person under the age of 18 years to have homosexual intercourse? That does not happen to a person who advises or attempts to persuade another person to smoke, to overeat, to enter on to drunkenness. Our criminal code does not attempt to limit the right of a citizen in his everyday conversations with people, even if they be children, to such a degree that criminal sanctions are imposed, no matter what an individual feels about what that person believes or what he is attempting to persuade the other person to do.

Surely the side issue involving schools should be put aside at the start. That matter has already been answered in full and, I am sure, to the satisfaction of every member, when he thinks about it, by the answer of the Minister for Education in this Chamber today. Similar answers have been given by Ministers for Education from both sides of politics. A similar answer was given by the Hon. E. A. Willis when he proposed that personal development courses be introduced into our schools, which courses are the basis of sex education in our schools today. He said at that time that there would be no countenancing within the Department of Education of any proselytizing of a particular point of view in relation to the sexual development of young people. It was said that the teachers would be dealt with under the disciplinary provisions of the Department of Education if they traversed that stricture. That stricture has been and it will be enforced by this Minister, as it has been by previous ministers of both political persuasions. So let us not get into the side issue of teachers in our schools.

The new offence that the honourable member for Hurstville seeks to introduce is both unrealistic and unnecessary. Let me take it to its ultimate degree: it is to be suggested to the people of New South Wales that there be on the statute books of this State an offence if a person advises, solicits or incites, whatever those words mean—the bill as it stands gives no definition of those words—a person under the age of 18 years to have homosexual intercourse. The person being incited might reject the overtures, in which case no act would be committed and nothing would have occurred. The honourable member proposes that the person doing the inciting be brought before the criminal courts for something he has said. I assure the honourable member that the days are long past when such incursions are made into the rights of free speech in this country, that offence is taken at what is said by people, in particular when no crime has been committed. The explanatory notes provided by the honourable member with his suggested amendment show the shallowness of his research into this matter. He referred to people in positions of authority. The only persons who realistically come within that ambit are school teachers. Does the honourable member suggest that the amendment will cover ships' captains and employers? Is he seeking to deal with persons who engage in that type of counselling? Of course the amendment has to do with the school situation. That matter has already been dealt with adequately by the present Minister and previous Ministers.

I suggest to honourable members that the review that is being made of the Crimes Act generally by senior law officers within my department is already significantly underway. It has reached such a stage that I hope to bring before this Parliament a Crimes Act that will be humane and logical. That part of the bill that has been passed so far is a realistic attempt to come to grips with the public issue of homosexual acts between consenting adults in private. However, the bill leaves many anomalies and illogicalities. That is bad in any criminal law because it amounts to disrespect for it. I ask honourable members to give deep thought to this matter. This is a silly and unnecessary amendment. Honourable members do not have before them documented cases that give concern sufficient to warrant placing on the statute books the amendment moved by the honourable member for Hurstville. I ask honourable members to reject the amendment.

Mr T. J. MOORE (Gordon) [1.38 a.m.]: I support the amendment. I wish to take up a number of points made by the Attorney General and to deal with the interjection, made by the Minister for Youth and Community Services and Minister for Housing at the time the honourable member for Hurstville moved his amendment, that a number of words in the amendment should be *ejusdem generis*. The Attorney General said that making provision for the offences recited by the honourable member for Hurstville in his amendment was unnecessary. To some extent it is because the offences he proposes recite the common law in statutory form. I shall deal with the question of whether the common law should be included in statutory form. The bill already contains another example of this. Proposed section 78T (2) deals with an offence of conspiracy, attempting, and incitement, to commit an offence. The Attorney General asked where the definition of incitement appears in the bill. I ask him the same question with respect to proposed section 78T (2). If the Attorney General would care to look at Watson and Purnell or any of the other authorities on the subject he would find that incitement is a judicially designed term, as are the other common law offences of attempting, procuring, and conspiring. I have reservations about the necessity of enshrining in the statute books common law provisions that already exist and that to some extent provide for more open ended penalties than those provided for in the amendment moved by the honourable member for Hurstville.

I am willing to support the amendment for two reasons. First, I do not believe that the penalty for the sorts of acts encompassed by the amendment of the honourable member for Hurstville should be open ended and that two years is a more

appropriate penalty to impose. Second, given that the Premier's bill by new section 78T (2) commences to import into the Crimes Act notions that are in the area of the common law, it is perhaps desirable as part of the codification process that instead of partly codifying the common law into the statute, the common law should be completely codified into the statute with respect to the items covered by the amendment of the honourable member for Hurstville. The Minister for Youth and Community Services suggested that a number of the words contained in the amendment of the honourable member for Hurstville ought to be read *ejusdem generis*. If that is the case, then as part of the statute law reform proposed by the Attorney General to the Crimes Act, that might be tidied up to make it read logically. I submit to the Attorney General and to the Committee that the carriage of this amendment tonight and the tidying up of the wording if necessary to remove grammatical redundancies on another occasion is the appropriate course of action.

Mr DOWD (Lane Cove) [1.42 a.m.]: It is of course platitudinous nonsense for the Attorney General to tell the Committee that it legislates on the assurances of Ministers for Education. I accept that the Minister who gave that assurance meant what he said, and I accept that he will not be the Minister for Education for ever. The criminal statutes of this State are not run on that basis. Honourable members are not talking in this particular amendment of a case of somebody trying to solicit and incite to a particular act. They are concerned not about what is in curriculum studies, but what happens in the schools, where there is now a percentage of homosexuals. Most of them do not try to spread the word; some do. Honourable members have an obligation to send our children to school. Values are instilled into them by people we do not choose. On behalf of the people of New South Wales, honourable members have a responsibility to look after the kids, not the teachers. It is those kids whom honourable members are concerned about. The Attorney General says there cannot be offences for what people say. What does he think conspiracy is about? What does he think incitement is about? The Attorney General said that the amendment is unnecessary. If it is unnecessary, why is it unnecessary? The fact of the matter is that there are common law offences which take the sections of the Crimes Act further. The operation of the common law takes this amendment beyond the express words of the section, the same as scandalous conduct.

Mr Wran: Which is the common law offence?

Mr DOWD: Inciting or conspiracy in both cases will take it further than the express words without this amendment. However, this amendment makes it clear until the Crimes Act is tidied up. The Opposition has waited eight years for it to happen. In the meantime, this amendment expresses the Parliament's view that honourable members ought to protect children from those who encourage young people to a homosexual lifestyle. We believe that parents should determine these matters. This amendment expresses the concern of its proponents to ensure that children are not lightly to be pushed into a homosexual lifestyle by the conduct of a teacher in the classroom.

Mr WRAN (Bass Hill), Premier and Minister for the Arts [1.44 a.m.]: There seems to have been some misapprehension by the honourable member for Gordon and the honourable member for Lane Cove. The honourable member for Gordon said that the proposed amendment merely recites the common law in a statutory form; and that theme was taken up by the honourable member for Lane Cove. As a matter of law, that is simply not correct. This proposal does not codify the common law at all. Incitement is nothing more nor less than a common law misdemeanour. Quite frankly, the amendment that is put forward with all the emotional trappings of worrying about the kids and not the teachers is a grab bag of uncertainty, duplicity, and duplication. For instance, consider, if I can spell one offence out, any person who incites a male

person under the age of 18 years to commit acts of gross indecency with any other male person. It is not as if there is no provision in the Crimes Act to deal with that very situation. Subsection 61E (2) provides:

> Any person who commits an act of indecency with or towards a person under the age of sixteen or incites a person under that age to an act of indecency with that or any person shall be liable to imprisonment for two years.

Subsection 61E (3) provides:

> For the purposes of this Act, the person who incites a person under the age of sixteen to an act of indecency as referred to in subsection (2) shall be deemed to commit an offence on the person under the age of 16 years.

I do not find myself in particular disagreement with the observations of the gentleman opposite in respect of the offence of incitement. However, when one starts taking as words of art in the law such terms as "advises", "counsels", "persuades" or "attempts to procure or persuade", then, leaving aside its inelegance, in terms of definition by the law and the known precedents that have evolved over the years, it is inexact to the point of being uncertain and, in my view, quite meaningless. For instance, if one is concerned about procurement to have homosexual intercourse, one will find that procurement for prostitution is already covered by section 91 of the Crimes Act.

Mr Dowd: That is prostitution.

Mr WRAN: I appreciate that.

Mr Dowd: Why did not you say so?

Mr WRAN: I did say so in simple language. At the moment I am trying to contain my usual convivial attitude to you.

Mr Dowd: Do not bust a gut on my account.

Mr WRAN: There is no reason for the honourable member to be vulgar. This debate has been conducted in a reasonable way and the honourable member should not use those vulgarities with younger people present. I do not think that what the Attorney General said should be swept to one side, and that it is adequate for the honourable member for Lane Cove in response to say he accepts what the Minister for Education asserted here today about the role of the teacher and the obligation and responsibility of the teacher in relation to those in his charge. In respect of the relationship between teacher and pupil the law provides that the teacher stands *in loco parentis*—that is, in the position of the parent. I would not have thought a teacher would last for one minute if he were advising females within his charge under the age of 16 to have sexual intercourse as quickly and as often as possible. Nor could it be suggested for one moment by any rational person in this Parliament that a teacher would last for one minute if it became known that the teacher was urging a young male student in his or her charge to have homosexual intercourse, either specifically or generally. In other words, it seems to me to be absolutely misconceiving the role of the teacher and the responsibility and obligation of the teacher. However, the argument has been put that way so as to generate an emotional level of debate.

Might I say, in passing, that two subjects stir the emotions of this Parliament; sex and salaries. The only point I seek to make is that to generate the motherhood or parenthood ethic in relation to this amendment is really to misconceive what the amendment would fail to achieve, and its lack of necessity. There is no point in the honourable member for Hurstville—whom I do not wish to attack too onerously at

1.50 a.m.—or the honourable member for Lane Cove, telling us of our obligations as adults to children, or the obligation of teachers to their children. What is the problem that the gentleman seeks to cure? I believe that most of us embrace Christian values even if we do not altogether embrace some of the teaching of Christianity or its philosophy or ideology, but this invocation of Christianity and decency as being a logical reason why an extremely unique and unprecedented measure of this sort should be put into the statute law of this State seems to me to be as unwarranted as it is illogical.

I do not think I need to, or should, say any more. I want to emphasize that this sort of provision has no parallel in the offence of carnal knowledge, or any parallel with males and females under the age of 16 years. The wording of the amendment could, or will, raise the utmost difficulty. I think the Attorney General's suggestion was sound. It would be good if this amendment were rejected. To the extent that the honourable member for Hurstville, or any other honourable member, is concerned with the obligation or the responsibility of adults for immature persons of either sex in their care, to do no act that would invoke the criminal law, that concern should be properly prepared, documented and made the subject of the sort of review to which the Attorney General has referred.

Mr YEOMANS (Hurstville) [1.52 a.m.]: I should like to take the opportunity of the right of reply briefly, in view of the late hour, as the Premier has pointed out. First, I take up the point raised by the Attorney General concerning the prosecution of people for using certain words. I point out that we have several statutes relating to slander, as some members of this House would be well aware. In those laws the nature of the words is important and a penalty is provided for their misuse. I point out to the Attorney General and all honourable members that the amendment is not vague. It makes quite clear what the person is advising or soliciting someone to do. It is not simply that they will talk about homosexuality, or explain what it is, but that they will actually advise others to try it. That is the important point. We are not considering a vague law, for it is quite specific.

Schools have been mentioned often tonight, not only in my speech but in the speeches of other honourable members. First, I should like to comment upon what the Minister for Education said this afternoon in answer to a question from the honourable member for Illawarra. In his answer the Minister said he believed that schools should be neutral territory. In my opinion, that is a considerable problem. We do not want schools to be neutral territory on moral issues like this. We want schools to be places where the heterosexual family case will be clearly and definitely stated. It is not good enough to be neutral. Current personal development courses, and any teaching in a school, are subject not to legislation but to regulations. I am sure the Minister for Education and the Director-General of Education are good men who will uphold valued principles, but we do not know what tomorrow might bring. It is important that we have not only in regulations, but also in legislation, a clear statement as to what we expect. This amendment is one such clear piece of legislation.

Parents able to withdraw their children from courses even now would be limited to those who understand how the school system works. I taught in my electorate for four years prior to coming to this House. I came across many migrant parents whose understanding of English was fairly limited and whose understanding of the procedures of the schools and government in general was even more limited. Those people also need protection. I am sure that the general migrant community is most concerned about this bill. This amendment can do a lot to reassure them. I was interested to note, in the answer given by the Minister for Education to a question put to him this afternoon, that courses covering homosexuality will not be

introduced in primary schools. Obviously, that leaves the whole of the secondary schools where those courses will be introduced, where the problem is likely to be at its most severe. As for procurement for prostitution, my amendment involves not simply procurement for prostitution but procurement *per se*. Obviously, procuring for prostitution is done for financial gain, but procuring could be doing the act simply to do a mate a favour, or because one thinks it might be a good idea at the time. It is most important that the aspect of procuring is covered as in the amendment. In view of the late hour I shall conclude by once again commending the amendment.

Mr WALKER (Georges River), Minister for Youth and Community Services and Minister for Housing [1.56 a.m.]: I wish to speak briefly on this matter. What the Opposition is seeking to do—and I understand that the Liberal Party has come to an agreement to vote *en bloc* on this particular matter—is to allow a layman to move an amendment to the law of incitement, and to include in that law terms of art long interpreted throughout the centuries of British law with a known and definite meaning, a whole series of lay terms like "advise and counsel". I can understand a teacher putting forward the sort of propositions we have heard from the honourable member from Hurstville tonight, but a teacher with that narrow experience of teaching children will not understand that when words like "advise and counsel" are used they are *ejusdem generis* and attract the rule of legal interpretation. Other words that are like advise and counsel can be interpreted in the law.

It is not simply teachers who will have to advise and counsel young homosexuals coming before them. Officers of my department, psychiatrists, psychologists, sex counsellors, and people such as family law counsellors will have before them cases involving homosexuals. As part of their job, duty and ethics of their professions they will be obliged to advise and counsel those people. If we are able to allow a layman to put into the criminal law, among the law of incitement that has been so carefully determined and defined by our High Court and the House of Lords and other courts in this land, those layman's words, we shall have a terrible mess in our criminal law.

Ministers of religion, like Reverend the Hon. F. J. Nile, are obliged to deal with people in crisis who come to them in personal agony over some emotional matter they have before them. If that involves homosexuality, what do they do about counselling and advising if this Parliament has allowed a layman to put into the criminal law words that can be interpreted in a way that would put the actions of that minister of religion at risk. Many ministers of religion support the bill the Premier has brought forward. Such an amendment would allow the criminal law to deal with them in a way no member of society would want. I understand there are attitudes in society dealing with teachers and the way they deal with children in personal development courses, but what the honourable member for Hurstville does not realize, and what the Leader of the Opposition somehow has not managed to persuade his colleagues to understand, is that there are other professionals in our society who have to counsel people in these situations, people with professional responsibilities who should not be limited by an amateur moving a particular amendment to the criminal law at this stage of the bill.

If honourable members such as the honourable member for Hurstville are concerned, at the appropriate time amendments should be moved to the criminal law, after carefully considering appropriate legal advice as to the full import of those amendments and their impact on society, so that psychiatrists, psychologists, ministers of religion and other counsellors are not hampered in their duties and put into positions where they may commit a criminal offence by simply doing their jobs.

Mr T. J. MOORE (Gordon) [2.1 a.m.]: The statements by the Minister for Youth and Community Services and Minister for Housing are quite spurious. The amendment refers to counselling, encouraging, or persuading a person to commit an act which constitutes an offence under these measures. If a minister of religion or other counsellor counsels a homosexual person on legal problems he would not commit an offence under the amendment moved by the honourable member for Hurstville unless that homosexual person is under the age of 18 years and the counsellor says, "Go out and try it" or words to that effect. Someone who counsels in general terms will not be committing an offence under the amendment. With respect to importing new concepts of incitement, I again refer the Minister for Youth and Community Services and Minister for Housing, and the Attorney General to case law on incitement and submit that most, if not all words comprised in the amendment of the honourable member for Hurstville are encompassed in existing common law interpretations on incitement, procurement, attempted conspiracy and other long-established and well-known common law charges.

Mr CAVALIER (Gladesville), Minister for Education [2.2 a.m.]: It is, as the honourable member for Lane Cove and other honourable members have said, not a matter of who is the present Minister for Education or the present Director-General of Education; it is a matter going right to the roots of this statute and whether statute law should continue to put absolute proscriptions on all forms of moral behaviour. To adopt the amendment put forward by the honourable member for Hurstville—as well intentioned and well motivated as he is—is to destroy the purpose of the private member's bill before the House.

I remind the Committee, because it seems to have been forgotten in the course of remarks made by the honourable member for Hurstville and others, of the present obligation of the New South Wales teaching service in the course of conducting personal development programmes. I remind the Committee of this very briefly; not every teacher seeks to teach personal development programmes; nor is every teacher who seeks to teach qualified and given that responsibility. A very delicate and sensitive type of person is required to teach it and only those people are appointed by the department to teach those programmes. We are not talking about breaking into history or geography or fine arts classes, into dissertations on the respective merits of one form of sexual proclivity or another; we are talking about particular periods put aside each day or each week to discuss important matters involved in the personal development of children and young adolescents, enabling them to develop self-esteem and the capacity to cope with their coming adulthood.

The problems envisaged by honourable members are matters more than adequately tackled by the terms of the private member's bill and more than adequately backed up ultimately by two most important things, the moral sense of the society of New South Wales and, in this particular instance, the professional sense of responsibility of members of the New South Wales teaching service, and the force of law that professional regulations give the Director-General of Education and the Minister to enforce the moral sense and the laws of this State.

Dr METHERELL (Davidson) [2.4 a.m.]: I had intended to vote for the amendment when it was first discussed. Having listened to both the speech of the honourable member for Hurstville and others, I find myself having grave doubts about the proposed provisions, particularly the words "counsel" and "advise". I can well imagine a situation that might involve, for example, a tutor in a university and a young first year student, or a teacher and student in a high school, or a clergyman—and as one honourable member has said, there are a number of clergymen and some honourable members have had communications from them—who do not take the view of the Reverend the Hon. F. J. Nile on this bill but believe homosexuality should be

decriminalized. I can well imagine in those three sets of circumstances a person 15, 16 or 17 years of age coming to a counsellor convinced that he is a homosexual, and seeking counselling and advice. I could imagine the counsellor saying, in all conscience, having listened to the person's conviction about his homosexuality, "Yes, I believe what you are doing is natural and right."

As I read the amendment, in those circumstances the person who gives that counselling and advice would be subject to criminal sanctions and a penalty of up to two years' imprisonment. I find that totally unacceptable. I could not support an amendment couched in those terms. I sincerely suggest to honourable members on both sides of the House that they consider the practical considerations that could arise from that sort of wording, and the fact that we could be making subject to criminal sanction a number of professional people in this State who are acting in all conscience, out of the highest regard for their professional principles and also out of the highest regard for the human needs of the person being counselled.

Mr LANDA (Peats), Attorney General [2.6 a.m.]: I congratulate the honourable member for Davidson on his serious concern. The fact is that I welcome the participation in the law reform processes of all honourable members of this House, be they legally trained or lay persons, who have a genuine interest in the betterment of the law. I give this undertaking to the House, that when we are dealing with the liberty of the subject, as it is known, when we are dealing with the question of whether a person will be sent to gaol or not, it ill behoves the Parliament to proceed in the vacuum of no advice from skilled professional officers available to give that advice. After all, it is something the public expect of us. When it comes to rights, freedoms and liberties, they expect, on the question whether one should go to gaol or not, to have that advice and to have that calm consideration. Do not let us ever get into the position where we pass laws that place in jeopardy the freedom of a citizen, at some late hour of the evening, without skilled advice that we know is available. I urge honourable members to adopt the course suggested by the honourable member for Davidson. The Government will certainly be bringing before this House the review that I said is significantly completed; at that time the honourable member can again move his amendment if he so desires.

Question—That the words be inserted—put.

The Committee divided.

[*In division*]

[*Interruption from gallery*]

The CHAIRMAN: Order! Visitors to the public gallery must not behave in a disorderly manner.

Ayes, 52

Mr Amery	Mr Christie	Mrs Foot
Mr Aquilina	Mr J. A. Clough	Mr Greiner
Mr Arkell	Mr R. J. Clough	Mr Hatton
Mr Armstrong	Mr Collins	Mr Hay
Mr Baird	Mr Cox	Mr Jeffery
Mr Bannon	Mr Cruickshank	Mr Kerr
Mr Beck	Mr Dowd	Mr Knowles
Mr J. D. Booth	Mr Duncan	Mr Langton
Mr Caterson	Mr Fahey	Mr Mair
Mr Causley	Mr Fisher	Mr Mochalski

Mr H. F. Moore	Mr Punch	Mr Wotton
Mr Mulock	Mr Singleton	Mr Yabsley
Mr W. T. J. Murray	Mr Smiles	Mr Yeomans
Mr Neilly	Mr Stewart	Mr Zammit
Mr Park	Mr Webster	
Mr Peacocke	Mr West	*Tellers,*
Mr Phillips	Mr Whelan	Mr Fischer
Mr Pickard	Mr Wilde	Mr T. J. Moore

Noes, 42

Mr Akister	Mr Hills	Mr Page
Mr Anderson	Mr Irwin	Mr Petersen
Mr Bedford	Mr Jackson	Mr Price
Mr K. G. Booth	Mr Keane	Mr Quinn
Mr Bowman	Mr Kelly	Dr Refshauge
Mr Brereton	Mr Knight	Mr Rogan
Mr Carr	Mr Knott	Mr Sheahan
Mr Cavalier	Mr Landa	Mr Walker
Mr Cleary	Mr McCarthy	Mr Walsh
Mr Crawford	Mr McGowan	Mr Wran
Mrs Crosio	Mr McIlwaine	
Mr Davoren	Mr Mack	
Mr Debus	Dr Metherell	*Tellers,*
Mr Ferguson	Mr J. H. Murray	Mr Beckroge
Mr Gabb	Mr Paciullo	Mr Wade

Question so resolved in the affirmative.

Amendment agreed to.

Question—That the schedule as amended be agreed to—proposed.

Mr DOWD (Lane Cove) [2.18 a.m.]: The purpose of this amendment as circulated is to prevent there becoming a distinction between males over the age of 16 years and those under the age of 16 years. As members have indicated, it is the 16 to 18 years age group which has constituted the problem on which all previous attempts to pass this legislation have failed. This provision is understandable in its terms as the purpose obviously is to prevent a homosexual act involving someone of that young age being left in abeyance, something to be used for improper purposes later by way of blackmail or otherwise. The purpose of moving this amendment to delete proposed section 78T (1), is to make sure that if for instance in a child welfare institution a homosexual act occurs involving a 16-year-old male he is not prevented from making some complaint about it until he is discharged at 18. He may find himself in circumstances where he cannot complain or it may come out later. I see no reason why a 16- and 17-year-old should be placed in different circumstances. The proposed section provides for a twelve-month limitation.

Those who believe that the law should be changed for 18-year-olds believe that persons of 18 are adults and can make their own lives. Persons not yet 18 years of age should have the same protection as a 14- or 15-year-old and so on. We are concerned with that particular age group. For that reason I move:

That at page 6, all words on lines 22 to 26 be left out.

Mr WRAN (Bass Hill), Premier and Minister for the Arts [2.21 a.m.]: The provisions inherent in the bill parallel the carnal knowledge provisions in the Crimes Act and relate to teenagers who are close in age engaging in sexual activity. It is not considered appropriate that a prosecution should be launched a long period after an offence is alleged to have occurred. The amendment is not acceptable.

Mr DOWD (Lane Cove) [2.22 a.m.]: That is exactly the reason for deleting these words. We do not want the same situation with carnal knowledge to apply where a boy is over 16, and ultimately there is no prosecution. That is why the deletion has been suggested to the House.

Question—That the words stand—put.

The Committee divided.

Ayes, 60

Mr Akister	Mr Ferguson	Mr Neilly
Mr Amery	Mr Gabb	Mr Paciullo
Mr Anderson	Mr Hatton	Mr Page
Mr Aquilina	Mr Hills	Mr Petersen
Mr Arkell	Mr Irwin	Mr Price
Mr Bannon	Mr Jackson	Mr Quinn
Mr Beckroge	Mr Keane	Dr Refshauge
Mr Bedford	Mr Knight	Mr Rogan
Mr K. G. Booth	Mr Knott	Mr Sheahan
Mr Bowman	Mr Knowles	Mr Smiles
Mr Brereton	Mr Landa	Mr Stewart
Mr Carr	Mr Langton	Mr Walker
Mr Cavalier	Mr McCarthy	Mr Walsh
Mr Christie	Mr McGowan	Mr Whelan
Mr Cleary	Mr McIlwaine	Mr Wilde
Mr R. J. Clough	Mr Mack	Mr Wran
Mr Cox	Mr Mair	
Mr Crawford	Mr Mochalski	
Mrs Crosio	Mr H. F. Moore	*Tellers,*
Mr Davoren	Mr Mulock	Mr T. J. Moore
Mr Debus	Mr J. H. Murray	Mr Wade

Noes, 16

Mr Baird	Mr Greiner	Mr Yeomans
Mr J. D. Booth	Mr Hay	Mr Zammit
Mr Collins	Mr Kerr	
Mr Dowd	Dr Metherell	*Tellers,*
Mr Fahey	Mr Phillips	Mr Duncan
Mrs Foot	Mr Yabsley	Mr Pickard

Question so resolved in the affirmative.

Amendment negatived.

Mr DOWD (Lane Cove) [2.30 a.m.]: The amendment that I propose is to delete the second part of proposed section 78T (2). This provides that the Attorney General's sanction must be obtained before any prosecution may commence. This is an extraordinary provision under our law. The Attorney General will deal with the matter at the indictment stage, if there are committal proceedings. When the boy

concerned is young I can understand why there should be some provision to cover the situation so there is not an automatic prosecution. However, a discretion is vested in the Attorney General at the time the prosecution commences, which means at the time that the arrest occurred—there is an interview and a question arises whether the person should be charged. This discretion ought not be exercised by the Attorney General at that stage.

Opportunities exist for, not necessarily corruption, but for decisions to be made based on a personal view whether a prosecution ought to proceed. It is a discretion that ought not be vested in the police officers concerned or in the Attorney General at that stage of the proceedings. It ought to be dealt with at the indictment stage. Therefore, in order that this provision is not used as a means of breaking down the protections for those 18 years of age and under, I believe that 18 years of age should be the age at which discretions ought not be exercised. If the Government is able to devise a better scheme, it can be implemented in another place. The discretion is absolute; it is exercised at a stage when a prosecution is about to commence. There cannot be proper advising. It is a cumbersome way to deal with a matter. Though I understand the concern that there ought to be a prosecution in every case, this is not the way that it should be done. Therefore I move:

That at page 7, all words on lines 3 to 8 be left out.

Mr T. J. MOORE (Gordon) [2.34 a.m.]: I speak with some diffidence on this amendment in disagreeing with my friend the honourable member for Lane Cove. I am concerned that there will be occasions when persons under the age of 18 years ought not properly be prosecuted in circumstances where if a committal proceeding were held and a committal recommended, a responsible senior Crown law officer would not file a bill of indictment. In those circumstances it would be to the great psychological detriment of the young person involved if he were forced to go through the crucible of being put in the witness box and cross-examined when no properly considerate senior Crown law officer would recommend that a bill be filed. Though I am reluctant to invest any political officer with these discretions, and I believe there is a strong argument in the future for the questions concerning no bills to be given to a director of public prosecutions, it is a philosophical point that is not the subject of this debate. The proposed measure provides greater protection for young pepole who are taken to court and put into a position where great psychological harm may be caused by that experience, when no reasonable senior Crown law officer would take them to trial on the substantive issue. I regret, as I have indicated in private to the honourable member for Lane Cove, that I disagree with the amendment moved and am unable to support it.

Mr WRAN (Bass Hill), Premier and Minister for the Arts [2.36 a.m.]: The view expressed by the honourable member for Gordon encapsulates the motivation behind the provision sought to be deleted from the bill by the amendment moved by the honourable member for Lane Cove. The provision is designed to protect young offenders from what might be described as a rash prosecution. For example, two 11-year-old males might be engaged in sex play, or there may be a circumstance where a young person is seduced by a much older person. I make it clear that the Attorney General would have no discretion in the case where one of the persons is over the age of 18 years. In other words, the purpose of the section is to protect young people who may be involved in sexual activity. As the honourable member for Gordon has said, no court in its right mind would either commit or convict. The honourable member for Lane Cove seems to concede that a mechanism is necessary. The honourable member's point of disagreement is the nature of the mechanism. For those reasons the amendment is rejected.

Mr DOWD (Lane Cove) [2.38 a.m.]: The honourable member for Gordon correctly stated the problems involved where people are subjected to committal proceedings and advice is then received that no bill should be filed. In the case of two 13-year-old boys, there ought not be a prosecution. I am concerned about what happens when one boy is 17 years of age and the other is 5 years of age. Obviously there will be disparities. It will be almost impossible to draw an appropriate line.

Mr Landa: The same situation occurs in carnal knowledge and incest cases.

Mr DOWD: I understand that. However, this is not a proper mechanism to deal with the matter. I apprehend that the National Party will not vote and I will not call a division on this amendment.

Amendment negatived.

Schedule as amended agreed to.

Bill reported from Committee with an amendment.

Adoption of Report

Mr WRAN (Bass Hill), Premier and Minister for the Arts [2.40 a.m.]: I move:

That the report be now adopted.

Question put.

The House divided.

Ayes, 63

Mr Akister	Mrs Foot	Mr Paciullo
Mr Anderson	Mr Gabb	Mr Page
Mr Aquilina	Mr Greiner	Mr Petersen
Mr Baird	Mr Hatton	Mr Phillips
Mr Beckroge	Mr Hay	Mr Price
Mr Bedford	Mr Hills	Mr Quinn
Mr J. D. Booth	Mr Irwin	Dr Refshauge
Mr K. G. Booth	Mr Jackson	Mr Rogan
Mr Bowman	Mr Keane	Mr Sheahan
Mr Brereton	Mr Kerr	Mr Smiles
Mr Carr	Mr Knight	Mr Stewart
Mr Cavalier	Mr Knott	Mr Walker
Mr Cleary	Mr Landa	Mr Walsh
Mr Collins	Mr Langton	Mr Whelan
Mr Cox	Mr McCarthy	Mr Wran
Mr Crawford	Mr McGowan	Mr Yabsley
Mrs Crosio	Mr McIlwaine	Mr Yeomans
Mr Debus	Mr Mack	
Mr Dowd	Dr Metherell	
Mr Face	Mr Mulock	*Tellers,*
Mr Fahey	Mr J. H. Murray	Mr T. J. Moore
Mr Ferguson	Mr Neilly	Mr Wade

Noes, 34

Mr Amery	Mr Bannon	Mr Christie
Mr Arkell	Mr Beck	Mr J. A. Clough
Mr Armstrong	Mr Causley	Mr R. J. Clough

Mr Cruickshank	Mr H. F. Moore	Mr Webster
Mr Davoren	Mr W. T. J. Murray	Mr West
Mr Duncan	Mr Park	Mr Wilde
Mr Fisher	Mr Peacocke	Mr Wotton
Mr Hunter	Mr Pickard	Mr Zammit
Mr Jeffery	Mr Punch	
Mr Knowles	Mr Rozzoli	*Tellers,*
Mr Mair	Mr Schipp	Mr Caterson
Mr Mochalski	Mr Singleton	Mr Fischer

Question so resolved in the affirmative.

Motion agreed to.

Report adopted.

BILLS RETURNED

The following bills were returned from the Legislative Council without amendment:

Community Service Orders (Amendment) Bill

Sunday (Service of Process) Bill

DAIRY INDUSTRY (AMENDMENT) BILL

First Reading

Bill received from the Legislative Council and read a first time.

JOINT SELECT COMMITTEE UPON PARLIAMENTARY PRIVILEGE

Message

Mr Speaker reported the receipt of a message from the Legislative Council agreeing to the Legislative Assembly's resolution relating to the appointment of a Joint Select Committee upon Parliamentary Privilege, nominating as the Legislative Council members of the committee the Hon. D. M. Grusovin, the Hon. B. H. Vaughan and the Hon. M. F. Willis, and fixing a time and place for the first meeting.

Message

Message sent to the Legislative Council agreeing to the time and place appointed by the Legislative Council for the first meeting of the Joint Committee upon Parliamentary Privilege, on motion by Mr Sheahan.

JOINT STANDING COMMITTEE UPON ROAD SAFETY

Message

Mr Speaker reported the receipt of a message from the Legislative Council agreeing to the Legislative Assembly's resolution relating to the appointment of a Joint Standing Committee upon Road Safety, nominating as the Legislative Council members of the committee the Hon. G. Brenner, the Hon. F. Calabro and the Hon. D. M. Isaksen, and fixing a time and place for the first meeting.

Mr SPEAKER: Order! I call the honourable member for Orange to order.

Message

Message sent to the Legislative Council agreeing to the time and place appointed by the Legislative Council for the first meeting of the Joint Standing Committee upon Road Safety, on motion by Mr Sheahan.

House adjourned, on motion by Mr Sheahan, at 2.48 a.m., Wednesday.