Legislative Council

Thursday, 18 *February,* 1982

The President took the chair at 12 noon.

The President offered the Prayer.

PETROLEUM (SUBMERGED LANDS) BILL

First Reading

Bill received from the Legislative Assembly and, on motions by the Hon. D. P. Landa, read a first time and ordered to be printed.

Suspension of Standing Orders

Suspension of certain standing orders agreed to on motion by the Hon. D. P. Landa.

MINE SUBSIDENCE COMPENSATION (AMENDMENT) BILL

First Reading

Bill received from the Legislative Assembly and, on motions by the Hon. D. P. Landa, read a first time and ordered to be printed.

Suspension of Standing Orders

Suspension of certain standing orders agreed to on motion by the Hon. D. P. Landa.

QUESTIONS WITHOUT NOTICE

SYDNEY TECHNICAL COLLEGE CABINETMAKING COURSE

The Hon. VIRGINIA CHADWICK: My question without notice is addressed to the Minister for Energy, Minister for Water Resources and Vice-President of the Executive Council. Has the pre-apprenticeship course in cabinetmaking at Sydney Technical College been cancelled? Was the class size to be fifteen students? Did fifty-five people apply for enrolment? Given the interest shown in that course, why was it cancelled last week after students had completed tests and after successful candidates had been notified? Is the excuse of lack of funding, proffered by the college officials, an accurate one? If so, why did the State Government reduce by more than 50 per cent its application for federal funds for pre-apprenticeship courses?

The Hon. D. P. LANDA: I shall refer the honourable member's question to the Minister for Education in the other place, and obtain a detailed answer.

DIVERSION DAM FOR BARNARD RIVER

The Hon. P. S. M. PHILIPS: My question without notice is directed to the Minister for Energy, Minister for Water Resources and Vice-President of the Executive Council. Has a small diversion dam been proposed for the Barnard River so that its water may be pumped to the Hunter Valley? Is it the purpose of that diversion dam to make Glenbawn Dam a more reliable water source for the Liddell power station's cooling pond, and for Bayswater power station which is at present under construction? Will the Minister advise the stage this project has reached?

The Hon. D. P. LANDA: I thank the honourable member for his question. The Electricity Commission has developed a proposal to construct a weir on the Barnard River in the Manning Valley to transfer water to the Hunter Valley. A hydro-electric scheme involving the transfer of the water is being considered as a possible development. The Electricity Commission has developed the Barnard River proposal to increase its security of water for the next few years. In keeping with the Water Resources Commission's responsibilities for water management in this State, the Electricity Commission submitted details of its Barnard River proposal to the Water Resources Commission for review. That review was completed by the commission towards the end of 1981.

The Barnard River diversion, to which the honourable member has referred, has been the subject of an environmental impact statement not yet concluded. It should be remembered that the diversion is not yet under consideration. Its principal use will be for water cooling, but it also will be able to assist Liddell power station. The inter-valley diversion projects, such as the Barnard River scheme, have been referred to the Water Utilization Council for comment and endorsement. That council consists of representatives of water supply organizations, government departments concerned with water development, and local government. Its function is to review significant water projects and recommend to the Minister for Water Resources an appropriate line of action. The Water Utilization Council considered the commission's review during September 1981 and endorsed the first stage of the scheme. The Electricity Commission has been informed of that decision.

TECHNICAL COLLEGE COURSES

The Hon. VIRGINIA CHADWICK: I ask a question without notice of the Minister for Energy, Minister for Water Resources and Vice-President of the Executive Council. How many students who are already involved in courses of study through the Department of Technical and Further Education are unable to continue or complete their courses this year because classes are full or courses have been cancelled? Where courses are still available, is preference being given to such students? If not, why not? If the courses have been cancelled, what advice would the Minister give to such students?

The Hon. D. P. LANDA: I shall refer that question to the Minister for Education in another place and obtain detailed advice.

ELECTRICITY SUPPLY

The Hon. E. P. PICKERING: I address a question without notice to the Minister for Energy, Minister for Water Resources and Vice-President of the Executive Council. In view of the Minister's frequently repeated statements in this House that

he is adopting an open-information approach to the problems of power generation in New South Wales, will the Minister advise when I might expect to have a reply to any one of the many questions that I have asked upon notice about that crisis?

The Hon. D. P. LANDA: The procedure for answering of questions upon notice is well established in this place. I have conformed with the procedure, and my record in answering such questions is above average. The honourable member will realize surely that it is a matter of the use of available resources. Much of the information he seeks has been the subject of public comment and he could get it himself by reasonable research. Though I shall always assist honourable members in this regard, if the information they want can be obtained through the library or from other sources, they should get it themselves. Whether that is possible is a matter for judgment by individual Ministers, weighing each question on its merits. I assure the honourable member that all departmental resources in the energy portfolio are committed to achieving maximum power in this State. The Government is faced with a tight electricity supply situation, which will extend into the winter. It is not assisted in its task by a lot of frivolous questions from the Opposition spokesman on energy matters. However, I shall give some detailed information on the subject.

The Hon. E. P. Pickering: If my questions are frivolous, why is the Government acting on so many of them?

The Hon. D. P. LANDA: I know the honourable member has various sources of information throughout the electricity generating industry. Occasionally he knows in advance what the Government intends to do. He then asks a question about it in a pathetically childish attempt to gain some credit for himself. That fools no one. It means that a lot of valuable time is taken up by staff engaged in researching the questions. I can assure honourable members that questions directed to me by the Hon. E. P. Pickering about my portfolio give me no concern. His lack of credibility has been established in this place on such matters as Energy Recycling Corporation Pty Limited and his oversea jaunts. I regard him, as he has been regarded in this House for some time and as he is known in the industry, as a laughingstock.

The Hon. E. P. Pickering: Why then did the Government withdraw the coal prospecting lease from Energy Recycling Corporation Pty Limited?

The Hon. D. P. LANDA: That firm did not comply with the conditions of its lease. Where has the honourable member been in the past twelve months?

BELROSE PUBLIC SCHOOL

The Hon. DOROTHY ISAKSEN: I direct a question without notice to the Minister for Energy, Minister for Water Resources and Vice-President of the Executive Council. Will the Minister advise the House what is being done to alleviate the accommodation problems at Belrose public school following the fire that occurred there in late October 1981?

The Hon. D. P. LANDA: I thank the honourable member for the question and I appreciate having been given the opportunity before she asked it to obtain detailed advice on the matter, especially as it relates to a portfolio as wide as that held by the Minister for Education. I am sure the Hon. Virginia Chadwick will be interested in this matter, for she claims some responsibility as Opposition spokesman on such subjects, though the Opposition has so many spokesmen in various places that it is a case of all chiefs and no Indians. The Minister for Education informs me that the fire at the school caused minor damage to one classroom and seriously damaged two others.

Urgent minor works were carried out to restore the first classroom to an operational state with the least possible delay. Unfortunately, the more seriously affected rooms require extensive work, including new roof trusses, aluminium windows, painting and carpeting. Delays in the provision of roof trusses have caused delays in other rectification work. I am advised that the appropriate materials were delivered to the school this week and officers of the Department of Education are collaborating with officers of the Department of Public Works to ensure the work is completed as quickly as possible. On present indications one room should be ready for occupation in three weeks and the second room approximately two weeks later.

As the honourable member is aware, the broader issue of accommodation at the school is the subject of a proposed building programme, to provide a library, an administration unit, and student amenities at an estimated cost of $500,000. I am advised that in the present financial climate it is not possible to say when such a project might proceed because of competing demands on the resources of the Department of Education.

NATURAL GAS

The Hon. E. P. PICKERING: I address a question without notice to the Minister for Energy, Minister for Water Resources and Vice-President of the Executive Council. Will the Minister advise the House what the Government has done to ensure that the vast gas resources in the Illawarra coal basin are used to ameliorate this State's electrical power crisis in the short term by supplementing our natural gas reserves?

The Hon. D. P. LANDA: I have had detailed discussions with the Australian Gas Light Company on this subject, to tap their expert knowledge, with a view to determining the possibilities in association with Energy Authority officers. The matter is under investigation. Such factors as cost and the contaminating nature of some of the gas will have to be considered. The prospect, however, is one of great benefit to the State.

WAKOOL–TULLAKOOL DRAINAGE SCHEME

The Hon. VIRGINIA CHADWICK: I ask the Minister for Energy, Minister for Water Resources and Vice-President of the Executive Council a question without notice. What is the state of the first stage of the Wakool–Tullakool subsurface drainage scheme for the Murray River?

The Hon. D. P. LANDA: I shall never be convinced that the Hon. Virginia Chadwick even knows where Wakool–Tullakool is.

The Hon. Virginia Chadwick: Where is it?

The Hon. D. P. LANDA: I know where it is because I have been there. When I was Minister for the Environment I became concerned about the gross salination of the area and I went to Wakool–Tullakool. Honourable members who have a better record of interest in rural and environmental matters than the Hon. Virginia Chadwick would be aware of the desolation of land caused by the salt rising out of the water-table. Should the Hon. Virginia Chadwick wish to have an explanation of what is happening at Wakool–Tullakool, instead of reading another person's question, I shall be happy to provide it.

The Hon. Virginia Chadwick: The question is my own.

The Hon. D. P. LANDA: The Hon. Virginia Chadwick should not say things like that. Honourable members are familiar with that type of nonsense from the Opposition spokesman on energy matters, for example. Great damage is caused in the Wakool–Tullakool area by rising salt on the water-table due to irrigation. This has rendered the land sterile. It is a dramatic experience to see die-back on the surface extending over many hectares. The salt abatement works are designed to provide sub-surface drainage by the removal of saline ground water under an area of 28 000 hectares of the State's irrigation schemes near Wakool. They will prevent the extension of salt into a further 19 000 hectares. The saline water will be pumped to evaporation basins, with the salt being harvested commercially. A gradual rise of ground water levels has caused a substantial reduction in the agricultural productivity of the area.

The abatement works include two solar evaporation areas, forty-two tube wells equipped with pumps, and 96 kilometres of pipeline ranging from 200 millimetres to 900 millimetres in diameter. The area required for evaporation is 2 100 hectares. Sunray Salt Pty Limited has entered into a lease agreement with the Water Resources Commission under which it will operate one of the evaporation areas and harvest salt. The Commonwealth agreed to subsidize the work under the National Water Resources (Financial Assistance) Act as part of the Murray Valley salinity control works. Construction began in 1978. The first stage of the scheme, which includes an evaporation basin of 730 hectares, twenty-three tube wells, and 48 kilometres of pipeline, is virtually complete, and is progressively being brought into operation. Of the twenty-three tube wells, twelve are in operation.

Preliminary work for the second stage has commenced. The major areas of activity in 1981–1982 will be: design, acquisition of 1 470 hectares of land for a second evaporation area, and the purchase of pipes. Expenditure to 30th June, 1981, was $7.45 million, of which the Commonwealth supplied $3.71 million only. The allocation for 1981–82 is $3.05 million, of which the Commonwealth is supplying $1.4 million only. The estimated total cost is $24 million. The work is on schedule. At any time the Hon. Virginia Chadwick wishes to obtain details about the burning issue of water salinity that is causing her such concern, I shall be happy to provide them.

NATURAL GAS

The Hon. E. P. PICKERING: I address a supplementary question to the Minister for Energy, Minister for Water Resources and Vice-President of the Executive Council about the Illawarra coal basin as a source of natural gas. As two organizations on the South Coast are pumping large quantities of natural gas into the atmosphere and energy is being lost, will the Minister cut through the red tape to ensure that before winter that energy supply is available to the citizens of New South Wales in the form of electricity.

The Hon. D. P. LANDA: I have said already that a detailed technical examination is being made of that possibility.

SEX EDUCATION

Reverend the Hon. F. J. NILE: I address a question without notice to the Minister for Energy, Minister for Water Resources and Vice-President of the Executive Council. In view of the widespread criticism by parents of the new series of three

sex education films entitled "Let's Talk About It", produced by Film Australia for primary school children, will the Minister inform the House whether those films have been approved by the New South Wales Government for screening in primary and infants schools? Will he ask the Minister for Education to view the films personally and decide their suitability for primary school children?

The Hon. D. P. LANDA: It was with concern that I read comments by the honourable member in a Sunday newspaper in which he suggested that I, as the former Minister for Education, had departed from what was established practice in the personal development courses conducted in the schools of this State, described broadly in the public arena as sex education. For many years personal development courses have been conducted in the State and church schools at secondary level, as we know. Similar courses have been conducted in private schools at primary level. When I was the Minister for Education I approved of sex education courses in primary schools. These courses were conducted in a professional manner. The allegation of the honourable member by which I was disturbed was that this was education being conducted in an authoritarian and compulsory way and did not take into account parents' wishes for the education of their children. If that is being done it is contrary to the instructions issued by me when Minister for Education. It would have been a reasonable courtesy for the honourable member to have made some preliminary inquiries from my office to ascertain the true position before he went into print on the subject. I trust that in future that courtesy may be observed, both in the interests of an informed discussion on the issue and so that the facts are presented correctly to the public of New South Wales.

In March 1980 I announced a programme that involved a broad programme aimed specifically at the personal development of primary school students. The programme was directed to the development of self-esteem and the ability to make sound judgments. The programme included hygiene, drug education, and elementary sexual reproduction education and other aspects that could be taught. In relation to small children in years 5 and 6, to which the honourable member referred in his article with some alarm, I made it clear in the instruction sent to every school the schools may include units on reproduction and sexuality, but only with the written consent of parents and subject to certain stringent conditions. Written parental agreement must be received before any child is permitted to be involved in these units of the programme. To the best of my knowledge, when I was the Minister responsible for education, that occurred. That would include the films made by Film Australia, a unit of the Commonwealth Government. That unit escaped the honourable member's criticizm. It should not be criticized because generally it has carried out a professional job. If any evidence to the contrary is available, I shall bring it to the attention of the Minister for Education in the other place.

Honourable members would know that the Minister for Education is concerned with the welfare of children; his personal values are well known. No strictures are needed from the honourable member on the basis of moral permissiveness to suggest that these lessons are not being conducted in a professional manner. These lessons will be of greater benefit to schoolchildren in their learning of these difficult subjects, rather than hearing about them, as has happened since time immemorial, from untrained persons. That view is shared by many persons in the community who understand the advantages of open, frank discussion. I know that the Minister for Education will apply the standards for which he is well known in his consideration of the further administration of that policy.

SEX EDUCATION

Reverend the Hon. F. J. NILE: I ask the Minister for Energy, Minister for Water Resources and Vice-President of the Executive Council a supplementary question. In view of the answer given by the Minister, will he investigate the screening last year of a sex educational film for children aged 5 and 6 at the Kempsey infants school? Was the film shown without the knowledge or approval of the parents, the Reverend and Mrs D. Geddes of the Kempsey Presbyterian Church?

The Hon. D. P. LANDA: As I said in my answer to the previous question, I should be pleased to obtain advice where the departmental instructions have not been complied with. In a system that caters for more than one million children, and with 60 000 teachers, it is not beyond the bounds of human possibility that an occasional error is made, with which I am sure society can cope. The instructions were direct and clear. I shall refer the matter to the Minister in the other place. I am astounded that an incident involving two of more than one million children should warrant the type of attack that the Reverend the Hon. F. J. Nile sought to make in the press last weekend instead of pursuing the matter in a more reasoned way.

HUNTER VALLEY AQUATIC FAUNA

The Hon. VIRGINIA CHADWICK: My question without notice is directed to the Minister for Energy, Minister for Water Resources and Vice-President of the Executive Council. What action will the Minister be pursuing as a result of last year's departmental study of aquatic fauna in the Hunter Valley?

The Hon. D. P. LANDA: The Water Resources Commission is in the process of publishing a document on the treatment and control of aquatic weeds and other pest substances. The commission is considering whether it should publish further documentation on fauna in the Hunter Valley. I shall request that the matter be investigated and shall supply further information to the honourable member in due course. For the future, I advise the honourable member that, when he seeks detailed information about some remote area of my responsibility, some prior notice of his question which does not contravene standing orders, might elicit more detailed answers.

CRIMES (HOMOSEXUAL BEHAVIOUR) AMENDMENT BILL

Introduction and First Reading

Motion (by the Hon. B. J. Unsworth) agreed to:

> That leave be given to bring in a bill to amend the Crimes Act, 1900, to decriminalise homosexual behaviour between consenting adults in private; and for certain other purposes.

Bill presented and, on motions by the Hon. B. J. Unsworth, read a first time and ordered to be printed.

Suspension of Standing Orders

Suspension of certain standing orders agreed to on motion by the Hon. B. J. Unsworth.

Second Reading

The Hon. B. J. UNSWORTH [12.35]: I move:

That this bill be now read a second time.

The principal purpose of the bill is to decriminalize consenting adult male homosexual behaviour. In recent months all members of the New South Wales Parliament have been subject to the wide-ranging viewpoint of individuals and organized groups within our community on the subject of homosexual behaviour. Two unsuccessful attempts have been made in the Legislative Assembly to effect reform of the criminal law applying to homosexual behaviour. Whether we like it or not, we have all been compelled to give serious consideration to the subject as the result of these events.

When the Crimes (Sexual Assault) Amendment Bill was passed by the Legislative Council in April 1981 I spoke in support of it and at that time indicated that I had not formed a final viewpoint on specific proposals in the area of homosexual law reform. Honourable members may recall that on that occasion I had cause to complain that a view attributed to me had been misrepresented in the Legislative Assembly. I indicated also that in my view a proposed amendment to that bill, which is generally known as the Rape Act, was an inappropriate method of achieving homosexual law reform. In the intervening period and as a result of the events referred to earlier I have now become firmly convinced that amendment to those sections of the Crimes Act that apply criminal sanction to consenting adult male homosexual behaviour, is necessary. That is not to say that I approve of homosexual behaviour: I most certainly do not. I believe homosexual practices should be actively discouraged in the same way as I believe that drug and alcohol abuse should be actively discouraged. Having said that, I must say that the imposition of gaol sentences on persons convicted of consenting adult homosexual activity conducted in private is as abominable as is the current description of the offence.

In the ensuing debate I have no doubt that we will hear much about sin and offending against God's law. I am of the view that at least on this question there must be a clear distinction between crime and sin. If the area of reform is restricted to consenting adults, the question of sin will be an issue between the individuals involved and their Christian belief, if they have one. Any punishment that such individuals receive will be administered by God, in this life and the next. My immediate concern on this issue is with the laws passed by this Parliament and the views on homosexual behaviour accepted by our community, at least as I perceive them. On this question speakers in other debates have summoned up support for their respective proposals from community and church leaders, opinion polls and legislative proposals, or the lack of them, from parliaments in every conceivable part of the world. Again I do not find that procedure at all helpful in dealing with the practicalities of this issue and, with one later exception, I shall desist from it.

Let me concentrate on the issues involved in this proposal for reform. Sections 79 to 81B of the Crimes Act are currently available to police and courts to apply criminal sanction and substantial penalty to persons involved in homosexual practices. I have said already that if the persons involved are adult, consent and go about their business in private, I do not believe the police or the courts should intervene. Section 79 is the key provision in this regard, and I propose that it be amended. First, there should be a separation of the offence of bestiality with animals and that of buggery with any person. I propose that the offence of an act of bestiality with any animal be the sole offence provided by section 79 and that the maximum penalty provided of 14 years' penal servitude remain unaltered. This provision would

then be followed by a new section dealing exclusively with buggery. The new section 79A would retain the offence of buggery except as provided in a later new section 81BA.

The reason for this method of drafting is quite simply to retain a sanction against certain elements of homosexual practice with persons under the age of 18 and more particularly where consent is absent. The retention of the offence of buggery in this form clearly refutes the suggestion that a change in the existing law would indicate community approval of homosexual practice and therefore encourage a growth of homosexual activity. I have had discussions with homosexual community activists and am aware that those who hold the most radical views wish to expunge from the Crimes Act all reference to buggery. They seek gender neutrality in terms of sexual practice.

I believe there must be a clear distinction between heterosexual practice which is natural in physiological function, and homosexual practice which is not. My discussions with more moderate homosexuals lead me to the view that the principal reform needed is to eliminate the potential for prosecution of persons involved in consenting homosexual acts, not all of which constitute buggery, conducted by adults in private. It is this aspect of the question that I urge all honourable members to consider seriously.

I have noted that in dealing with offenders in two recently reported rape cases judges have imposed additional sentences where the victim was subjected to an act of buggery in addition to the heterosexual assault. For this and other purposes I believe the offence should remain separately provided for in the new section 79A. I should say that the existing definition of sexual intercourse in section 61A (1) (a) of the Crimes Act could be construed as indicating a degree of recognition of equality between vaginal and anal penetration, which I believe should not exist.

The maximum penalties provided by proposed section 79A will introduce an element of equality of penalty when compared with the sexual assault provisions incorporated in the Crimes Act by the passage of the Crimes (Sexual Assault) Bill, 1981. The approach adopted in the proposed amendments to section 80, which deals with attempts to commit buggery, is to graduate the maximum penalty from the existing maximum of five years penal servitude. I propose that section 81 should be deleted, as the offence of indecent assault on a male can be adequately dealt with under section 61E of the Act.

Section 81A, which deals with outrages on decency, will be amended to make the commission of acts of gross indecency in public an offence, punishable by liability to two years' imprisonment. In my view the existing provisions of section 81A provide real dangers for homosexual men involved in private, consenting homosexual activities, and should therefore be substantially amended. I have been advised that men kissing, embracing, or dancing together in public face the possibility of conviction under the provisions of this section. That activity, however distasteful it may be to the heterosexual majority, surely does not warrant liability for imprisonment.

Proposed section 81A will ensure that, if properly administered by the police and the courts, acts of gross indecency in public will be actively discouraged. In various discussions I have had on this section with homosexuals it has been put to me that section 5 of the Offences in Public Places Act adequately deals with outrages on decency. I do not agree with that view. Whilst a member of the monitoring committee appointed by the Attorney-General to watch progress of the operation of the Offences

The Hon. B. J. Unsworth]

in Public Places Act, I consistently proposed that the maximum penalty of $200 provided for offences under section 5 be substantially increased as there was insufficient scope for the imposition of deterrent penalties; no such action has occurred.

It seems to me that we should establish some clear understanding of the meaning of acts of gross indecency. Initially I was of the opinion that there should be some definition of such acts. However, subsequently I have been convinced that discretion should remain with the courts having regard to the circumstances of the case. However, it seems to me that such acts would more likely be public masturbation, fellatio, or buggery, rather than kissing, embracing, or dancing. I would hope that, if this bill is passed, the police and judiciary will adopt a similar view.

Section 81B, which covers soliciting a male person in a public place, will be deleted. In my view this section is absurd at best and at worst provides a situation that can lead to entrapment or even blackmail of homosexual men. Honourable members may recall the world famous concert pianist who was charged under this section in Sydney some years ago arising from an incident in the Lang Park toilets. If honourable members see no offence in men propositioning women, which I am told frequently occurs with impunity, they can hardly find offence with men propositioning other men. This, I believe, is an area that can be covered adequately by section 5 of the Offences in Public Places Act. If the person propositioned is seriously affronted and alarmed, charges may be brought against the offender.

The key provision in the bill is contained in proposed new section 81BA, which will provide the basis on which consenting adult homosexual behaviour conducted in private can be decriminalized. The safeguards incorporated in the section will ensure that the consent given was genuine, the persons involved had both attained the age of 18, or one or the other genuinely believed his partner had attained that age. The question of privacy is a vexed one and raises a number of possibilities. Section 8 of the Crimes Act defines a public place and this would normally suffice for the purpose of this amending bill. To ensure that public lavatories do not become more popular as a venue for homosexual liaisons, a specific provision, proposed section 81BA (4) (ii), is incorporated so that public lavatories do not provide privacy for the purposes of the Act.

A further provision, proposed new section 81BA (4) (iii), will be incorporated to provide that homosexual acts should be conducted without the presence of other persons. Radical homosexuals may feel constrained by this provision. However, I am assured by their more moderate colleagues that in the expression of their sexual preference they have the same feelings of love and affection displayed by normal heterosexuals. They would therefore not be disadvantaged by this provision. Proposed section 81BB will provide a limitation on prosecution in certain circumstances, and proposed section 580 will ensure that common law charges may not be brought in respect of certain homosexual behaviour provided for in the bill.

I have presented this private member's bill with the strong conviction that the time for this Parliament to adopt a responsible attitude toward homosexual law has arrived. I suggest that we should examine this issue free of prejudice and unthinking bigotry. In developing my current attitude towards homosexuals I have carefully examined my family bible, reading from Genesis of the destruction of Sodom and from Leviticus of the rules for conjugal relationships. I have already said at the outset that I have no doubt that homosexual activity is against God's law. However, it should not automatically follow that all homosexuals commit crimes that should be punishable by the State.

In seeking to reconcile the moral issues involved in this question, as a practising Christian I am reminded of the attitude adopted by Jesus as related in the gospel according to St John when dealing with the adulterous woman. To remind honourable members of these events, I read from the gospel commencing at chapter 8.

> Jesus went to the Mount of Olives. At daybreak He appeared in the temple again; and as all the people came to Him, He sat down and began to teach them.
>
> The scribes and the pharisees brought a woman along who had been caught committing adultery; and making her stand there in full view of everybody, they said to Jesus,
>
> > Master, this woman was caught in the very act of committing adultery, and Moses has ordered us in the law to condemn women like this to death by stoning. What have you to say?
>
> They asked Him this as a test, looking for something to use against Him.
>
> But Jesus bent down and started writing on the ground with His finger. As they persisted with their questions He looked up and said,
>
> > If there is one of you who has not sinned, let him be the first to throw a stone at her!
>
> Then He bent down and wrote on the ground again.
>
> When they heard this they went away one by one beginning with the eldest, until Jesus was left alone with the woman, who remained standing there.
>
> He 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 anymore."

Are we as Parliamentarians to act as latter day scribes and pharisees by seeking to implement God's law as laid down by the priests of the tribe of Levi? The Christian churches and their adherents may be entitled to urge that God's law—"You must not lie with a man as with a woman"—be followed. If men fail to heed that advice, the church cannot expect the State to cast the first stone. Though we can urge men not to sin I do not believe we are entitled to punish sinners to the extent currently provided in the Crimes Act for the commission of consenting adult homosexual acts. The most we are entitled to do is to say as Jesus said, to the adulterous woman, "Go away and don't sin anymore." I commend the bill to the House.

Debate adjourned to a later hour on motion by the Hon. R. B. Rowland Smith.

Motion (by the Hon. B. J. Unsworth) agreed to:

> That the Order of the Day for the resumption of the adjourned Debate take precedence of all other business on the Notice Paper for today.

[*The President left the Chair at* 12.15 *p.m. The House resumed at* 2.17 *p.m.*]

STANDARD TIME (AMENDMENT) BILL

First Reading

Bill received from the Legislative Assembly and, on motions by the Hon. D. P. Landa, read a first time and ordered to be printed.

Suspension of Standing Orders

Suspension of certain standing orders agreed to on motion by the Hon. D. P. Landa.

Second Reading

The Hon. D. P. LANDA (Minister for Energy, Minister for Water Resources and Vice-President of the Executive Council) [2.18]: I move:

That this bill be now read a second time.

Under the bill the present daylight saving period will be extended for one month until 4th April, 1982. The Government is taking this step in the interests of conserving electrical energy and reducing electricity peak demands and consumption in this State. As honourable members are aware, under the Standard Time Act, 1971, summertime, or daylight saving time as it is commonly known, is in force from the last Sunday in October until the first Sunday in the following March. Electricity Commission and Energy Authority research shows that daylight saving results in a reduction in peak demands by up to 150 megawatts, which is equivalent to about 3 per cent of total electricity demand. It is expected that by extending the present period of daylight saving there will be a continuation of the reductions in peak demand already experienced.

Having regard to the present electrical energy supply difficulties, the Government is of the view that a reduction in peak demands will have a beneficial effect by lessening requirements for peak power from the Snowy system, reducing transmission line losses and reducing the need for operation of gas turbine peaking plant. It is expected that there will be marginal benefits as well. Among them will be a reduction of some electrical loads such as for domestic lighting and heating, and some commercial and industrial loads for lighting, for air-conditioning and for cooling. In addition, night sporting and entertainment events will not need to draw as much electrical energy. The bill will have effect only in relation to the present daylight saving period. I commend it.

The Hon. R. B. ROWLAND SMITH (Deputy Leader of the Opposition) [2.21]: The National Country Party opposes this bill for reasons that I shall give. First, I must make a strong protest. The way the Government runs this Parliament is nothing short of farcical. The Legislative Assembly met in session last week to debate a number of important issues. Because this House had no business to debate, it did not meet until Tuesday of this week. Both Houses will rise at the end of the proceedings today and they will not meet again for two weeks. The measure before us today contains a proposal for the extension of daylight saving in New South Wales until 4th April. After we have debated it we shall resume debate on a private member's bill that seeks to decriminalize homosexual acts between consenting adults. It is absolutely farcical and a disservice to the people who elected us to have this House sitting for one week only before it rises for the two weeks' adjournment. There is no reason on God's earth why this Parliament cannot sit one more week in order to afford members an opportunity to debate important issues.

The Government gave an assurance that it would consult country residents before making any decision to extend the period of daylight saving. I was informed of this bill only late yesterday afternoon, so obviously there could have been no consultation between the Government and country people before the decision to extend daylight saving was made. Last night the President correctly ruled me out of order when I sought to discuss on the motion for the adjournment of the House a

matter that I believed to be of urgent public importance, though I accept that it would have been better to leave it stand as a notice of motion. I realized that in all probability the matter would not come before Parliament because there would not be a sufficient number of private members' days to allow this to take place during the present session. It is farcical that this sort of thing should happen. We are here to serve the interests of the people of New South Wales, not to serve the interests of this Government. The reason why Parliament is to rise for two weeks is to allow the Labor Party to campaign in the federal seat of Lowe.

The Government is seeking approval to extend daylight saving in this State until 4th April. Daylight saving was due to end on 7th March but, because of the crisis, so called, in the power industry the Government believes that an extension of one month will save some energy. In essence, what the Government is saying is that we have a power crisis. Given that, surely the peak will not be reached in March, but rather in May and June, in the colder months. The Minister assures the House that this is a once-only extension, which I do not accept. What is there to suggest that if the power shortage problem has not been solved by late March, the Government will not ask for an extension of a further month? I am concerned about the effect of this extension, particularly on country people, and on mothers with young children attending school. In a census in *The Land* newspaper reported recently some 98 per cent of those who were interviewed said they were opposed to daylight saving, and certainly to any extension of it.

Those who advocate the extension of daylight saving, such as Mr Michael Wilson, the president of the Daylight Saving Association, welcome this bill, not just from a power-saving point of view but because the advocates of daylight saving want to see it extended in this State over a period of six months. Mr Wilson was reported in the *Sydney Morning Herald* today as expressing that view. It is a red herring for him to say that in order to gain the maximum power saving, the Government should resume daylight saving at the beginning of October rather than at the end of October, so extending it to a full six months.

The Hon. Deirdre Grusovin: It will save power, will it not?

The Hon. R. B. ROWLAND SMITH: The honourable member should tell that to women in the country.

The Hon. J. D. Garland: In what way do they suffer?

The Hon. R. B. ROWLAND SMITH: If the honourable member listens, I shall tell him. I remind this House that it was the Premier who, when campaigning in the Castlereagh by-election caused by the resignation of Mr Jack Renshaw, wooed people in that electorate with the false promise that he would consider establishing time zones in New South Wales. The Premier told them that he was fully cognizant of the problems caused by daylight saving, particularly in western districts such as those embodied in the former electorate of Castlereagh. The bill represents just another of the Premier's broken promises. He has done nothing to alleviate the hardship caused by daylight saving in the western districts of New South Wales. It is easy to say, "Let us have daylight saving throughout the State" when you live on the seaboard of this great State.

The Hon. D. P. Landa: Like the Deputy Leader of the Opposition?

The Hon. R. B. ROWLAND SMITH: Honourable members are accustomed to hearing stupid remarks from the Minister, but that would be the silliest he has ever made. Nonsense is being talked about what will happen with extended daylight. It is said that people will have more time to go to the beaches and to devote to sport

and recreations. Daylight saving gives people the opportunity to go into the clubs and spend an extra hour before the sun goes down before going home for their evening meal. They spend the extra hour in their pub or club rather than in doing something of benefit physically for themselves or in the home. So, having said that, let me turn to the interjection of the honourable member who asked how daylight saving affects country people adversely. Farmers work by the sun; they work to the rising and setting of the sun. Government supporters who are farmers will understand that. Farmers have to work for as many hours as possible.

The Hon. D. P. Landa: The Government is not altering that.

The Hon. R. B. ROWLAND SMITH: This is not an amusing matter. It is all very well for the Minister to sit here and smirk; he does not have to put up with the problems faced by farmers. Country people have to put in as much time as possible in ploughing the soil and moving stock. Stock cannot be moved in other than daylight hours. The extra hour makes a big difference to them. Then there is the effect of daylight saving on mothers with children going to school. Because of the proposed extension children will be coming home from school in the heat of the afternoon. There have been many tales of great hardship on that aspect.

On the seaboard the temperatures stay at about a pleasant 26 to 30 degrees during the summer, with cooling northeasterly breezes making the atmosphere even more enjoyable. It is a different tale west of the Divide where summer temperatures range from 36 to 40 degrees or even higher. The Government now wants to extend daylight saving into perhaps the hottest month of the year—March. What about the effect of daylight saving on the people of the west? We in this House represent all the people of New South Wales and not just those who live in Newcastle, Sydney and Wollongong.

The Hon. D. P. Landa: The Country Party?

The Hon. R. B. ROWLAND SMITH: Yes, we certainly do represent all of the people of New South Wales. It is high time that this Government took cognizance of the fact. It is hypocritical of the Government to go to the country districts and say, "We care for country people". The Government gave an assurance that there would be consultations between it and country people over any proposal to extend daylight saving. Has it done so? Certainly not. As I said earlier, the Government could have done so and brought Parliament back next week to debate the issue. This is flagrant discrimination against country people. In other parts of the world, particularly in the United States of America, in States with high temperaures, such as Arizona and Texas, people would laugh at the thought of daylight saving. They are pleased to see the sun go down after the heat of the day. We in the Country Party are absolutely opposed to daylight saving. We have made that abundantly clear to the Government. We accept that daylight saving is entrenched in this State, but any extension of it is anathema to us. I do not accept the Government's word that because of a power crisis this is a once only extension. The sooner this Government gets its act together on the electricity generation industry, the better. Why should people in country areas, as well as city areas, mothers of young children have to suffer because of the Government's inadequacies? We oppose the bill.

The Hon. E. P. PICKERING [2.30]: As Liberal Party spokesman in the House on energy matters I support the proposed measures because the Government says that it is designed to assist the community pass through the present power crisis. I must accept the word of the Electricity Commission of New South Wales that an extension of daylight saving will reduce power consumption by 1 per cent and reduce peak loading by about 150 megawatts. I cannot contest those figures. On the basis that

they are correct—I have no reason to believe they are not—the passage of this measure must be accepted. Opposition supporters are mindful of the fact that the Government has wrecked the power generating system of this State. This is one of a number of measures that the Government has been forced to introduce in panic to overcome, or at least ameliorate, the situation.

The most disturbing aspect of this proposed legislation should be understood by honourable members. In the past few months the Minister for Energy has had long consultation with many community interest groups, including business groups and representatives of the construction industry, to determine how he might go about providing power for New South Wales and avoid blackouts and restrictions. For that the Minister is to be commended. It is sensible to approach community interests and obtain their views on what might be done to resolve the problem. Many of those community groups have advised the Minister that one thing he might do is extend daylight saving. Prior to speaking with the Minister some of those groups have spoken to me to canvass my views on what they might put to the Minister. At least three months ago daylight saving was suggested to the Minister as an option. The option has been before the Minister and has been the subject of press speculation for many months.

Earlier this week when the power crisis was discussed at length the Minister did not inform the House that the Government intended to extend daylight saving. When my colleague the Hon. Elisabeth Kirkby raised it as a suggestion, the Minister did not reply, thank her for the suggestion and state that the Government intended to implement such a scheme. Clearly the extension of daylight saving is being made at the death and with great urgency. It is of interest to know that recently Government departments in this State issued documents on the basis that daylight saving would conclude at the usual time. I shall give the House one example: the department that issues information on tides recently issued a document showing that tides rise and fall according to standard times. That proves that this decision has been taken only recently. One can conclude only that, as the Minister has been cognizant of the total energy problem facing the Government for some months, there has been a dramatic change and the situation has worsened. Opposition supporters are unable to suggest what might have changed, but it could be put to the Minister that he has been unable to resolve the dispute with the Electrical Trades Union and that is clearly exacerbating——

The Hon. D. P. Landa: The Government is not the employer of the Electrical Trades Union.

The Hon. E. P. PICKERING: The Minister says that the Government is not the employer. However, the Minister has stated in this House that he and the Premier are conducting personally the negotiations in this dispute.

The Hon. D. P. Landa: That is wrong. That is rubbish. I have never said that. It is absolute rubbish.

The Hon. E. P. PICKERING: It is on record. The Electrical Trades Union dispute has jeopardized the State's winter power supplies because the Eraring power station is not likely to be commissioned on time. I am reluctant to raise the second problem in the House, but do so because the Government has evidence that in recent times the situation has become worse and honourable members are not being informed. It is now common rumour—and I put it no higher than that—but it is rumoured from sources that are reputable, that the Eraring power station, upon which the Government is hanging its hat, has significant commissioning problems. I raise the matter in the

House in the hope that the Minister is able to assure honourable members that the rumours that are circulating within the commission and the trade are wrong. I hope they are wrong. I should like an assurance from the Minister that they are wrong.

The Hon. D. P. Landa: Do not cry crocodile tears; the Government is awake to the Hon. E. P. Pickering.

The Hon. E. P. PICKERING: The Minister is not the only person in this House who would like to see New South Wales continue with an abundant power supply. Opposition supporters wish to see power supplied to the people of New South Wales. For the Minister to hold out otherwise is nothing less than spurious. I shall deal with that comment later. It is rumoured that the first generator to be commissioned at Eraring was turned over prior to the Electrical Trades Union strike commencing and that there was an oil failure to the main bearings of the unit, causing the bearings to either score or bend the shaft. If either one of those things has happened, it is serious. I have attempted to obtain information about this from the commission, but all I am told is that there have been problems that cannot be evaluated until the Electrical Trades Union dispute is resolved.

Of more recent date a rumour has been running throughout the trade that the Eraring power station is incorporating new methods of recovering grit from the fuel gas instead of using electroprecipitators, which is the normal technique by using what are known as bag houses. I have raised in this House that the Eraring power station is using technology first off the rank so far as a power station of the size and type is concerned. I am not suggesting there is anything wrong with bag houses, but I am suggesting that there is stark rumour running round that during the commissioning phase when the boiler was heated up with fuel oil instead of coal, the bag houses were polluted by droplets of oil. That rendered the bag house unusable. I do not wish to be misquoted by the Minister. I speak with sincerity.

The Government knows that the disruption to the community would have been minimized if its proposal to extend daylight saving had been announced months ago and not left until only two weeks of the present period remained. The Government has run into further trouble, but is not willing to come clean with the people of New South Wales. This is one of the desperate measures that the Government plans to adopt; there are many more to come. On Tuesday I said that New South Wales has 8 360 megawatts of installed capacity, not including the power that the State buys from Victoria and the Snowy Mountains. If one considers the situation that developed before Christmas when New South Wales was consuming about 4 500 megawatts——

The Hon. D. P. Landa: On a point of order. The Hon. E. P. Pickering is repeating the speech he made on a previous occasion when full debate was permitted on the electricity supply position of New South Wales. I permitted the honourable member to proceed without interruption in the hope that he would realize that a number of honourable members wish to speak on another matter, would show some consideration and spare the House repetition.

The Hon. E. P. PICKERING: What is the Minister's point of order?

The Hon D. P. Landa: The point of order is that the honourable member's remarks are not relevant to the bill before the House.

The Hon. E. P. Pickering: On the point of order. As I understand it, the bill has been introduced solely to ameliorate the present power crisis. My remarks are related to details of that crisis and are within the order of leave of the bill.

The PRESIDENT: Order! The bill being considered by the House is the Standard Time (Amendment) Bill. I realize that the Minister raised matters affecting electricity supply. I am willing to allow the honourable member a little more leniency, but ask that he relate his remarks to the leave of the bill that is before the House, for it seems that he has strayed wide of the mark.

The Hon. E. P. PICKERING: I have raised this matter a second time only because on the first occasion the Minister for Energy assured the House, by way of interjection, that he would reply to these matters, but failed to do so. The Minister should explain to the House whether any recent crisis has developed to warrant this bill being rushed through the House. The point I seek to make is that the State's power supply is in a critical situation. I believe it has worsened since Christmas. At that time the State had a total capacity of 8 360 megawatts of electricity supply. About 1 500 megawatts had been lost at Liddell in one fell swoop, leaving only 6 860 megawatts.

The Hon. D. P. Landa: Liddell power station lost 2 000 megawatts.

The Hon. E. P. PICKERING: In addition to that, power was being purchased from the Victorian Government and the Snowy Mountains Authority, in unknown amounts. I am unable to provide the House with details of the quantity of power purchased, but clearly some was purchased. The people of the State suffered restrictions. With a demand of 4 500 megawatts that meant that more than 2 300 megawatts had disappeared somehow. In other words, within the State system more than double the output of Liddell power station had been lost through failures. The Minister interjected to say that the State had lost 2 000 megawatts at Liddell.

The Hon. D. P. Landa: As well as having the Vales Point turbine out.

The Hon. E. P. PICKERING: The electricity supply system has a massive problem. The Minister should tell the House today whether the position has changed since he spoke in the House on Tuesday of this week.

The Hon. D. P. Landa: I shall do that.

The Hon. E. P. PICKERING: The Opposition recognizes that there is a crisis. It does not propose to divide on the bill. It does not want blackouts or restrictions in New South Wales. I remind the Minister for Energy that before the Castlereagh by-election, the Government, acknowledging that country people suffered because of daylight saving, suggested that the State be divided into two regions, country and city, so that daylight saving restrictions would apply in the city only. I ask the Minister whether consideration was given to that promise, which was made to country people, and what the result was.

The late notice about the Government's intention to extend daylight saving caused additional hardship in the community. All commercial airlines have now printed and issued their timetables on the basis that daylight saving would end at the appointed time. Those documents will be useless because of the Government's failure to give adequate warning. Notice of the Government's intention could have been given three months ago. That would have saved thousands of dollars that will now be wasted in the Government Printing Office and in the commercial sector.

Another matter to which the Minister should address himself today is that this morning I spoke to Sir Eric Willis who introduced the first daylight saving bill into this Parliament. Sir Eric told me that as a Minister of the Crown he carefully considered whether the amount of power normally used was reduced during periods of daylight

saving. He was able to refer to what occurred in World War I and World War II. He advised me that it is a matter of written record that no significant savings in power were attained in those periods and that power saving was not a good and cogent reason for extending daylight saving.

Recently I read in the newspaper that the Electricity Commission had announced that it could save 150 megawatts of supply at peak by a 1 per cent reduction in consumption. That 1 per cent is a worthwhile saving. It would reduce the number of blackouts. I seek an assurance from the Minister for Energy that those figures are accurate. I seek a further assurance that the Government's mad haste with this legislation does not reflect a further crisis in the Electricity Commission about which the Minister has not yet told the House.

The Hon. J. J. DOOHAN [2.45]: I oppose the bill. I am appalled at the importance that members on the Government benches attach to it. I was astounded to hear the Minister for Energy, when speaking to a point of order, suggest that the Hon. E. P. Pickering should get on with the job because another bill will be debated in the House and honourable members wished to speak to that bill. I seek to defend a minority of persons who live in the north and west of the State. They should be considered as much as are the minority of persons about whom honourable members will speak when debating the bill to which the Minister referred.

The Standard Time (Amendment) Bill is most important. I was astonished recently to hear it said in this House that the Government and the Opposition were not concerned about blackouts and power restrictions but were making political capital out of the problem. Perhaps we were making some political capital, but I believe the statement was unfair. Government supporters and Opposition members are most concerned about what will happen to the citizens of the State next winter. In opposing the bill the Country Party does not lack concern for what will happen to people living in the city in the winter.

The Hon. D. P. Landa: Country people need electricity also.

The Hon. J. J. DOOHAN: That is right. But in many country areas people generate power by cranking up an engine. The Government has failed to consider those persons. The Minister has not put before the House any proof that substantial benefits will flow to city people from the introduction of the bill. Honourable members should be given more information. Certainly those who live in the west and north of the State want further explanation if they are to suffer in order to help relieve the power crisis. The proposed legislation has not been adequately explained to them. No evidence has been produced to demonstrate that the extension of daylight saving will make a significant difference to the State's power crisis this winter.

There is ample evidence to show that country people have been disadvantaged by the introduction of daylight saving. They have not been consulted about extension of the period of daylight saving. My colleague the Hon. R. B. Rowland Smith has dealt briefly with the problems that will be suffered by country people. It is ironical that the bill has been made necessary largely because the Wran Government conceded a 37½-hour working week to power industry employees. Those who must pay for that concession are the farmers who work between sixty hours and eighty hours a week.

The Hon. D. P. Landa: Not the farmers who are members of this House.

The Hon. J. J. DOOHAN: I shall tell the Minister about an incident that happened recently. My son and I had to muster sheep and bring them about six miles across plains that had no trees, in heatwave conditions. We mustered the sheep early, took them under a clump of trees and stayed with them all day. We were not able to

move away from the trees until 6 p.m. We then travelled by night, in moonlight. If the Minister had been there and said that he wanted to extend moonlight saving, I would have supported him. Country people, particularly women, have many problems. In fact, with daylight saving country people lose an hour's sleep. In some ways it makes no difference to the men because they work by the sun, but the women have to get their children up an hour earlier. It is impossible to get the children to go to sleep an hour earlier.

The Hon. D. P. Landa: Why cannot mothers get their children to sleep earlier?

The Hon. J. J. DOOHAN: Has the Minister ever tried that with his family?

The Hon. D. P. Landa: Yes. I have an 11-year-old daughter, who goes to sleep when she is told.

The Hon. J. J. DOOHAN: I should like the Minister to address country mothers and tell them how that is done. Also, when the men come home in the evening the news on the radio has finished, the post office is closed—everything has stopped an hour earlier. The Minister does not realize that these things happen. The Government should look again at the votes cast in the referendum held on daylight saving.

The Hon. D. P. Landa: Two-thirds of the votes were in favour of it.

The Hon. J. J. DOOHAN: Yes, but country people voted about 78 per cent against it. The Government ignored the minority. I quote from this morning's issue of the *Australian* newspaper:

> Victoria's Minister for Labour and Industry, Mr Ramsay, said yesterday Victoria would not follow suit and extend daylight saving.
>
> Mr Ramsay said the New South Wales move was a last minute ploy to save energy.
>
> "This unilateral move by the New South Wales Government is a desperate attempt to save energy and to hide the fact that its electricity generating system is in a shambles," he said.
>
> "Daylight saving is usually a matter for joint discussion and consideration between all the States concerned."

The other States were not consulted. This bill was introduced without warning. In one way the Government is saving power in New South Wales because it is driving people out of the State into Queensland.

The Hon. D. P. Landa: What is the Victorian Government doing?

The Hon. J. J. DOOHAN: Victorians are not leaving their State in the same numbers as people are leaving New South Wales.

The Hon. D. P. Landa: The honourable member is talking rubbish.

The Hon. J. J. DOOHAN: If the Government continues with this sort of caper, the people in my part of the State will want to secede to Bjelke-land.

The Hon. D. P. Landa: Property values in this State are increasing all the time.

The Hon. J. J. DOOHAN: At least the Premier of Queensland remembers country people. City people admire him.

The Hon. D. P. Landa: The honourable member has stayed in New South Wales, so it cannot be too bad here. Farmers would not turn their backs on a good opportunity.

The Hon. J. J. DOOHAN: If I left this State there would be no one to look after the people west of Dubbo.

The Hon. D. P. Landa: That is a fine compliment.

The Hon. J. J. DOOHAN: I quote from an article published in the *Daily Telegraph* of 9th February subtitled "New South Wales loses 27 500":

> About 27,500 people left New South Wales to live in Queensland, according to the latest statistics.

The Hon. P. F. Watkins: How many of them were retired? Did the newspaper do a survey of that?

The Hon. J. J. DOOHAN: Retired people left this State to go to live in Queensland and this Government was forced to abolish probate. That stage has passed now and the younger people are leaving. They do not like the Government in this State but they like the one in Queensland. I do not want to contribute any more to this debate but I emphasize that, contrary to what one would believe from the amount of attention being given to the bill by honourable members on the Government benches, this is an important bill. Members of the Opposition are concerned about the power supply. We are concerned for the elderly who are lucky enough to have power connected to their homes. But the Minister has failed to convince the Opposition that this measure is necessary or that it will achieve much. The Opposition fears that this will be the thin edge of the wedge and that, having extended daylight saving this year, the Government will extend it again next year. I oppose the bill.

The Hon. R. W. KILLEN [2.55]: I wish to speak on two matters in particular. The first is whether the proposed extension of daylight saving will be a once-only extension, as has been stated by the Government. The second is the effect that any extension for any reason whatsoever will have on the people living in the country areas of New South Wales which are the areas that will be most affected by daylight saving. The first point is whether the proposed extension will be a once-only extension or whether it will be used as a precedent to extend daylight saving still further for an extra month daylight saving next year. I shall spend a few moments examining what has happened in New South Wales during the past two or three years about the Government's expressions of intention that have proved to be wrong. I refer first to the Electoral Act. When the Labor Party assumed office the Premier informed the people of New South Wales that his party had won government fairly and squarely. Having received just over half the votes, it won half of the seats. Now there are six fewer country seats. A number of people who reside in country areas have sat in this House. Three seats have gone. At the last general elections the Government suffered a loss of 2½ per cent, yet it won six additional seats. That is flagrant discrimination against country people gaining representation in Parliament.

The Hon. D. P. Landa: The honourable member does not like one vote, one value.

The Hon. R. W. KILLEN: The Minister should remember that on an average persons who live in country electorates have to cast 100 votes when electing a representative to the Legislative Assembly, but persons living in the Sydney metropolitan area have to cast only 92. I intend to add a little to what the Hon. J. J. Doohan said about country families. Honourable members on this side of the House will know about

that. I hope honourable members on the Government side of the House remember those words and are willing to accept them as being accurate. Perhaps they will vote accordingly. It is not a fiction that children have to get out of bed, get ready for school, catch a bus to school, put in their full school day, and come home on a bus journey that takes up to two hours in the hottest part of the day. Children find that sort of programme especially difficult in their early years of school. They travel on a bus at a time of day when the heat is overpowering. They become mentally and physically exhausted. Anything that makes those conditions worse causes complete disruption of family life because children come home exhausted to a family that is still working and will continue to work until it is almost dark. A further one hour of activity places a heavy burden on a child. This is a human problem, and a real one. Though the Government claims that the proposed extension will be temporary, my hunch is that it will be permanent. I ask the Government to reconsider its decision.

When the Minister replies to this debate I ask him to explain more fully how the projected 1 per cent saving in electricity will be achieved by the adoption of this measure. If my memory serves me correctly, when daylight saving was introduced it was not because it would save energy but because it would satisfy a social need. If we are honest with ourselves in considering the extension of daylight saving at this time of year, we will agree that domestic power use will increase, particularly as the mornings become darker. I do not wish to labour the issue any longer. The effect of daylight saving on country people will be detrimental. Parliament is concerned with people and it must be remembered that those who live in the country are also part of society.

The Hon. ELISABETH KIRKBY [3.1]: I had not intended to speak to this bill but in view of what has been said by other members, I as a woman and as a mother feel compelled to pass some comments. I hope they will bring commonsense to this debate. Any one would think that by changing the clock the Government has the power to change the movement of the sun in the heavens and the temperature. That is impossible. I agree that farmers work according to the hours of daylight. I live on a farm. We do not work by the clock, but to the hours of daylight. The time is immaterial. Equally, changing the clock will not change the temperature. In this State of temperature extremes, no one can change the temperature levels but the Deity. So what are we talking about? Children, and particularly children of the far west, suffer from the high temperatures of summer. Is it worse for them if, at what the clock shows as 2 p.m., they are in the classroom? They may be hot and tired, particularly if they are young. Or is it worse for them if the clock shows that time as 3 o'clock and they are in the bus being taken home? Surely, they are better off sitting in a classroom during a period of high temperature than being transported many miles on a country bus.

We cannot help the children to deal with the problems of high temperatures during the times of the day when they occur. Equally, in the hours of darkness, when it is 6 o'clock in the morning and still dark, it is not pleasant to have to get the children up and send them to school. The alternative is that they come home in the dark. In one way or another parents must deal with children getting up in darkness. Let us bring reality into this debate. All over the world there are varying timetables. All over the world, at a time of crisis through failing energy reserves, governments are being compelled to change their time patterns. Recently, I was in South-East Asia on holiday. It happened, in Bangkok, that there had been a change in airline time tables. When I got to Singapore I found that Singapore and the State of Malaysia had moved on to the same time zone, and that consequently the airline timetables were not synchronized. It was extremely annoying to travellers that the change of

time zones had been effected to save power. Those areas face the same power problems that we face. The same problems are being experienced in the Northern Hemisphere, particularly in the United States of America.

We may save only 1 per cent of power by doing this but, surely, if we are now calling on the Snowy Mountains scheme for hydro-electric power, it is better for us to save that 1 per cent and keep it in reserve until such time as we get really cold weather in winter. I am extremely sorry for the women in the western districts. I understand their problems. I, too, come from a farming property, but we must have some reason in this debate. We must stop the argument which makes it seem that the Government controls the temperature and hours of daylight. It does not. The Government only controls the clock on the wall and what it is saying. I congratulate the Government on the action it has taken, and I support the bill.

The Hon. F. M. MACDIARMID [3.7]: I had not intended to enter this debate, but after hearing the inane speech of the Hon. Elisabeth Kirkby, who said that the Government was not able to change the temperature, I realized it is she who has lost sight of the fact that daylight saving adversely affects a great number of country people. What about dairyfarmers? I am sure people on all sides of politics will agree that they are an important cog in the whole scheme of industry within New South Wales and also Australia.

The Hon. D. P. Landa: It is not so much an industry. It is agriculture.

The Hon. F. M. MACDIARMID: That is industry.

The Hon. D. P. Landa: Agriculture is clearly defined.

The Hon. F. M. MACDIARMID: It is agricultural industry. All of us would have seen cows coming up singly to be milked. They are put out of their regular time routine because of the change in daylight hours.

The Hon. D. P. Landa: I cannot concede that.

The Hon. F. M. MACDIARMID: They are indeed. The Minister for Energy, Minister for Water Resources and Vice-President of the Executive Council thinks that milk comes from bottles in Woollahra.

The Hon. D. P. Landa: It does not come from the coffee shops in Double Bay where I see the Hon. F. M. MacDiarmid.

The Hon. F. M. MACDIARMID: If the Minister sees me there, he must be there too.

The Hon. D. P. Landa: I live there.

The Hon. F. M. MACDIARMID: The Minister thinks that you get milk by going out through your tennis court at Woollahra and buying a bottle.

The Hon. D. P. Landa: I do not suggest that I am supposed to be representing country people, as the honourable member does. And yet he is still living in the eastern suburbs.

The Hon. F. M. MACDIARMID: Am I?

The Hon. D. P. Landa: The Hon. F. M. MacDiarmid lives just around the corner from me.

The Hon. F. M. MACDIARMID: At one time when the Opposition parties were in government I made a suggestion that I thought was quite practical. I put it to the Minister that if people wanted more daylight hours in the city, there would

still be only a saving of about 1 per cent in energy in this State, as both the Hon. E. P. Pickering and the Hon. Elisabeth Kirkby have said. Why cannot the working hours of business houses be brought forward one hour? Business houses start to function at 9.10 a.m. Why could they not start at 8.10 a.m. and avoid disturbing the country people of this State? Under normal conditions one would not save much power by this measure. I was brought up on a farm where power was generated privately. We were told that when we left any room we should put out all the lights. If everyone in New South Wales adopted that policy, probably we would not have a power shortage.

The Hon. D. P. LANDA (Minister for Energy, Minister for Water Resources and Vice-President of the Executive Council) [3.8], in reply: I thank honourable members for their contributions. With the exception of the Hon. Elisabeth Kirkby I am disappointed that members opposite once again try to argue against daylight saving but do not raise anything new. Most arguments about daylight saving have been canvassed exhaustively in this community. The legislation for daylight saving was introduced after an overwhelming majority of the people in this State voted in favour of it.

The Hon. R. B. Rowland Smith: They were from the city.

The Hon. D. P. LANDA: We still happen to live in a democracy.

The Hon. R. B. Rowland Smith: What about the Premier's talk of time zones? He promised to do something about that.

The Hon. D. P. LANDA: A referendum was held and the overwhelming majority of people in this State supported daylight saving. Perhaps they would support it throughout the year. Consideration has been shown for country people by the fact that it is only for a limited period of the year. If a referendum were held to consider the introduction of daylight saving for the whole year I venture to say that a similar majority would favour it. It is true that the Government must consider country people and those in isolated areas to ensure they do not face hardship as the result of any measure introduced in this House, including daylight saving. As I move about the country from time to time, rather more than the Hon. R. B. Rowland Smith does even though he is Leader of the Country Party in this place, I feel that daylight saving is increasingly accepted. I suppose the Hon. R. B. Rowland Smith must remain in Sydney to protect his public funding position in case the Liberals change that.

The Hon. R. B. Rowland Smith: The Minister should not be smart.

The Hon. E. P. Pickering: What does that have to do with daylight saving?

The Hon. D. P. LANDA: That has much to do with daylight saving as daylight saving has to do with what cows feel about giving milk at eastern standard time. The community has canvassed all, as it is fully entitled to do, and it has formed a view. A Liberal Party–Country Party Government brought in daylight saving. Let us not have any humbug about the Labor Party acting as an urban party against the country people. In this Parliament the Labor Party has extensive country representation. Indeed, in the country electorates Labor gets more votes than the Country Party. The Labor Party in the history of this State, starting with the illustrious example of Sir William McKell, has nothing to apologize for in its representation of the country people and in the furtherance of their interests.

The Hon. R. B. Rowland Smith: Tell that to the people up in Barwon.

The Hon. D. P. LANDA: That is akin to the Hon. J. J. Doohan saying if he were not here, the country people would have no representation west of Dubbo.

Mr Wotton, the member for Castlereagh, would have something to say about that. They do not seem to know who he is.

The Hon. R. B. Rowland Smith: The Minister is getting excited. He is dropping his aitches.

The Hon. D. P. LANDA: That is better than dropping principles, as some honourable members did on public funding. What we are dealing with here is reaction to a measure based on common sense to extend daylight saving once only for four weeks to assist in saving power and to improve the State's energy supplies for the winter. The estimated saving will be 1 per cent. In considering that estimate one has to take into account such matters as varying temperatures, the return to work of employees who have been on holidays, and holiday patterns, including the effect of four weeks' annual leave. It is difficult to arrive at an exact figure with such variables. I do not wish honourable members to regard my statement as being an ironclad undertaking of the saving that will be effected. We could use more energy if, for example, it is a hot month. Energy use will increase at the end of the daylight saving period but the estimate has taken account of that. The one clear thing is that as we have an energy problem, we would be foolish if we did not consider taking this step.

The complaint about the delay in implementing the extension of daylight saving is legitimate. The Government would like to have given more notice, particularly to those who will have to print timetables and to whom the delay will cause some economic inconvenience. They will have the time to correct timetabling and supply information to their customers. Theories about daylight saving and whether it actually saved energy meant that the proposal contained in the bill had to go through Cabinet, caucus, and the normal democratic procedures of the Labor Party. That affected the notice that could be given, but even so there is still ample time for people to give sufficient notice of timetable alterations, though there could be difficulties for those who have to print timetables. Little if any additional inconvenience will be caused, and that inconvenience has to be weighed against the added convenience to many people in the extension of daylight saving. It is not all minuses, even on the subject of lifestyle.

I do not wish to place the energy argument before the House as a do or die effort by the Government. I can assure honourable members, on the advice given to me by the Electricity Commission, that no imminent event has triggered this measure. The fact is that I gave an undertaking that I would leave no stone unturned to obtain extra power for the forthcoming winter. Though the figures are fine and the margins arguable, there is to be but a few more weeks' difference between the States in the matter of time.

The Hon. F. M. MacDiarmid: We have had a Labor Government for too long; that is why we are in the dark.

The Hon. D. P. LANDA: That is a condition that the honourable member should get used to in New South Wales so far as his political future is concerned, supposing that he ever had a political future. An important bonus for the community is that, on the figures available, the extension of daylight saving should reduce peak demand by up to 150 megawatts, which will place less drain on the transition system and lessen the State's need for Snowy water, especially if some generating plant is not available. I shall investigate the rumours mentioned by the Hon. E. P. Pickering. I have no doubt that rumours abound about the Electricity Commission. One can only feel for the professional officers of the commission who must be having a difficult

time as rumours spread about their performance. One would hope people would be more careful about their statements and check them before making allegations, especially in a public place like this House.

The Hon. E. P. Pickering: They have been checked.

The Hon. D. P. LANDA: The honourable member denies he would not be unhappy if the State was plunged into blackouts. That does not seem to be the profile the Prime Minister has presented, according to the recent political statement read out by the Victorian Minister for Labour and Industry in which he gloated over the difficulties confronting New South Wales. One would think, from the manner in which the Prime Minister treats New South Wales and from his statements against this State, that he is the Prime Minister for all other States except New South Wales. He forgets that this is the largest, most industrialized and most populated State in the nation. If the Prime Minister were truly a national leader, he would be less divisive and indulge in less knocking of this State merely because the people of New South Wales have the foresight to elect Labor governments.

I thank honourable members for their support of the bill. I am fortified by the fact that it was supported by the Liberal Party in the other place, by Liberals in this House, and especially by a Liberal Party member in the other place who represents a country electorate seat. I accept his view more than I do the crocodile tears shed by these Killara and Double Bay opponents of the bill.

Motion agreed to.

Bill read a second time.

Committee and Adoption of Report

Bill reported from Committee without amendment, and report adopted, on motions by the Hon. D. P. Landa.

Third Reading

Bill read a third time, and returned to the Legislative Assembly without amendment, on motions by the Hon. D. P. Landa.

PRINTING COMMITTEE

Second Report

The Hon. N. L. King, as Chairman, brought up the Second Report from the Printing Committee.

Ordered to be printed.

CRIMES (HOMOSEXUAL BEHAVIOUR) AMENDMENT BILL

Second Reading

Debate resumed from an earlier hour.

The Hon. R. B. ROWLAND SMITH (Deputy Leader of the Opposition) [3.22]: I do not speak on behalf of the Opposition parties on this bill, for it deals with a matter on which each member must be in a position to take a personal

standpoint. I hope the Government will permit its members to do likewise. Since August last year on several occasions the decriminalization of homosexual acts has been raised in this Parliament. The first bill debated was the one introduced by the honourable member for Illawarra, which sought to give homosexual and heterosexual practices and behaviour equality before the law. That bill would have legalized sodomy between adults and children above the age of 16 years, and in certain circumstances with boys 14 years of age where the adult believed that the boy was 16 years of age. The bill would have legalized homosexual acts committed in private and public. It would have also legalized male prostitution and soliciting in New South Wales. The bill was opposed and soundly defeated.

The second bill was introduced by the honourable member for Cronulla. It sought to decriminalize homosexual acts between adults. That bill was rejected also by an overwhelming majority of sixty-five votes to twenty-eight. This House now has before it the Crimes (Homosexual Behaviour) Amendment Bill, the objects of which are to amend the Crimes Act, 1900, so as:

(a) to bring about equality of penalty as far as practicable in respect of certain sexual offences; and

(b) to decriminalise homosexual behaviour between consenting adults in private.

I have given earnest consideration to this matter. In the course of my address I shall enlarge upon various points that have brought me to the conclusion that I should oppose the bill. In the past few years the moral structure of our society in New South Wales has been eroded. The repeal of the Summary Offences Act by the Offences in Public Places Act has brought a downturn in moral behaviour in this State, particularly in Sydney. I do not know why certain sections of society demand that, as we advance into the 1980's we should change those laws that were enacted years ago because they are not up-to-date. Certainly we must be looking always to updating laws to suit changing circumstances. I am one of those persons who has maintained always that one does not make change for change's sake.

Permissiveness has been allowed to get out of hand, so much so that one has only to go through the shadowy and even the bright areas of Kings Cross to see the moral degradation that is occurring. The growth in drug traffic in this State is horrific. Young boys and girls offer themselves for prostitution in order to obtain money to buy drugs that are freely available in many parts of this city. As legislators we have a responsibility to those who elect us to this Parliament. We must ensure that law is upheld and preserved. Law and order are being eroded because this Government says that people should be able to do as they please, irrespective of the effect it will have on the morals of society, and, more particularly, on the morals of young persons. The distinguished English jurist, Lord Devlin, speaking of morals and the law said:

> Society means the community of ideas; without shared ideas on politics, morals and ethics no society can exist. If men and women try to create a society in which there is no fundamental agreement about good and evil, they will fail. If society has the right to make a judgment, then a recognized morality is as necessary to society as, say, a recognized government. The society may use the law to preserve morality. Therefore society has a right to legislate against immorality as such.

They are profound words, and I adopt them. Lord Devlin went on to talk about private and public morality, which strikes much to the heart of this bill which has as

one of its objects the decriminalizing of homosexual behaviour between consenting adults in private. Lord Devlin continued:

> It is no more possible to define a sphere of private morality than it is to define one of private subversive activity. It is wrong to talk of private morality, or of the law not being concerned with immorality as such or to try to set rigid bounds to the part which the law may play in an expression of vice. There are no theoretical limits of the power of the State to legislate against treason and sedition. And likewise I think there can be no theoretical limits to legislation against immorality. The line which divides the criminal law from the moral is not determinable by the application of any clear-cut principle. It is like a line that divides land and sea, the coastline with its irregularities and indentations. There are gaps and promontories such as adultery and fornications the law has for centuries left substantially untouched. The fact that adultery, fornication and lesbianism are untouched by the criminal law does not prove that homosexuality ought not to be touched. Morals which underly the law must be derived from the sense of right and wrong which resides in the community as a whole. If the reasonable man believes that a practice is immoral and believes also that no right-minded member of his society could think otherwise, then for the purpose of the law it is immoral. The law has never yet had occasion to inquire into the differences between Christian morals and those which every right-minded member of society is expected to hold. For the purpose of the limited entry which the law makes in the field of morals there is no practicable difference.

The bill has been introduced as a forerunner to another more extensive type of Petersen bill to be brought forward during the year. If the bill is passed through all stages in this House and accepted in the other place, it will be only the tip of the iceberg. What assurances do honourable members have that the bill will not be amended in the other place? It would be irresponsible to consider repealing this section of the Crimes Act or widening the laws relating to homosexuals. It is generally found that when laws have been widened beyond their original intention they are far more open to further widening and compromise.

Though this is a private member's bill, not a government bill, it does not reflect public opinion. The people have given no mandate for the repeal of the law, especially where it affects the social and moral structures of society. I have been informed that the Labor Council of New South Wales urged the Government and the Parliament of New South Wales to repeal those sections of the law that discriminate against homosexual behaviour and to extend the protection of the Anti-discrimination Act to homosexuality. What evidence is there in the community to support a move to decriminalize homosexual behaviour in private between consenting adults? Is there overwhelming evidence that society requires changes in the Crimes Act such as will be effected by this bill? Without a referendum there is no mandate or firm body of opinion.

I remind the House that in February 1977 the New South Wales Government held a seminar on victimless crime. At that seminar Dr Ronald Conway, a consultant psychologist, stated that it was generally accepted by psychologists, anthropologists and psychiatrists that genetic or hereditary causes played a relatively minor part in the development of homosexual preferences. Where there may be genetic or psychological predisposition to homosexuality, it still requires environmental decisions that were favourable to the development of the psychological traits corresponding to the physical predispositions. It is important to note that heterosexuality is the most common form of sexual expression, is inevitably connected with the furtherance of the species, and is commonly classified as normal behaviour.

The Hon. R. B. Rowland Smith]

A comparison of heterosexual and homosexual offences shows that male homosexual laws make no distinction as to the age of either party. The age of consent for heterosexual acts is normally 16. Lesbian acts with females under the age of consent are dealt with in the heterosexual laws covering indecent acts with females under the age of consent. The Child Welfare Act states that persons under 18, of both genders, who engage in or are involved in sexual activity are exposed to moral danger. Those provisions have been used for heterosexual and homosexual acts by male and female minors, and nothing in the law indicates when the Child Welfare Act or the Crimes Act should be used especially against male homosexual minors. The law governing conduct between consenting adults differentiates between homosexuals and heterosexuals.

Within the law some equality exists to recognize the seriousness of some crimes, whether heterosexual or homosexual. Only in a limited number of cases does the law actually victimize or prosecute homosexuals, and regrettably victimization of a few is not confined to homosexuals. The essential fact is that people should not suffer the advances of others, whether homosexual or heterosexual. Homosexual acts are among the smallest number of court actions involving sexual offences. Court action against homosexual offenders, that is the total number of offences, together with an overall percentage of sexual offences dealt with in court actions, is as follows: In 1977 there were 14 cases of buggery, or 5.6 per cent of all sexual offences; in 1978 there were 13 such offences, or 4.1 per cent of sexual offences; in 1979 there were 9 offences, or 3.7 per cent of the total, and in 1980 there were 18 offences or 6.2 per cent of the total number of sexual offences. It would appear that the number of homosexuals prosecuted for the crime of buggery could hardly constitute overwhelming victimization. The figures to which I have referred show that the highest percentage of sexual offences prosecuted in court involved heterosexual crimes and not homosexual crimes. Thus over-victimization seems to be limited and the repeal of the law unnecessary.

In this debate health has not been dealt with in detail. It is of concern to me, as I am sure it is to all honourable members. Public health authorities have been extremely concerned about the high incidence of venereal disease among homosexuals. Between 1976 and 1979 homosexuals transmitted 70 per cent of the syphilis diagnosed at the Sydney VD clinic, and most gonorrhoea and hepatitis B is spread by homosexuals engaging in oral sex. Urinary tract infections are commonly found. In the United States of America some venereal disease infections have reached epidemic proportions among homosexuals. Most medical practitioners express reservations about homosexual acts from a purely medical viewpoint because of the high incidence of venereal disease, if not from a moral point of view. On 21st December, 1981, an article entitled "Diseases that Plague Gays" appeared in *Newsweek* in the section "Medicine". I shall read from that article:

> The promiscuous homosexual male has long been vulnerable to hepatitis and venereal diseases like syphilis and gonorrhea. But an unusual assortment of disorders—some of them deadly—has recently broken out in the homosexual community . . . intestinal infections usually seen in the tropics, a particularly virulent form of pneumonia and a lethal cancer most often found in equatorial Africa.

A New York internist, Dr Ronald Grossman, said:

> The health problems of homosexuals used to be no different from those of heterosexuals. But in the last five or six years there's been a major change. According to the Centres for Disease Control nearly 50 per cent of males

> with active syphilis are homosexual. Hepatitis B is so prevalent among homosexual men that blood serum from gay volunteers was used in the development of the new vaccine against the disease.

It can been seen clearly that if one forgets the moral aspect of the issue, from a medical viewpoint alone homosexuality has caused a spread in the diseases of gonorrhoea, syphilis and hepatitis B. In summing up I make several points to support my opposition to the measure. First, the number of prosecutions for homosexual offences was outweighed considerably by prosecutions and court actions against heterosexual offenders. Neutralizing the gender of the act could in fact widen potential crimes relating to soliciting.

The widening of the law could lead to agitation for further rights, the widening of other laws and their recognition of such things as teaching homosexuality as an alternative life style in schools. Already I have received through the mail a pamphlet entitled *Young, Gay and Proud* which was one of the most offensive pieces of material I have ever seen. Fortunately, it has been classified but it was widely distributed. I have received complaints from persons who have read it. It was nothing but filth, and I use that word in its usual context. Teaching homosexuality in schools as an alternative life style could create homosexual marriages, affect the adoption of children and pension rights, and may even lead to the acceptance of homosexuals in the armed services.

The Hon. B. J. Unsworth: The Hon. R. B. Rowland Smith was in the navy.

The Hon. R. B. ROWLAND SMITH: I had hoped that the Hon. B. J. Unsworth would not interject. Yes, I was in the Royal Australian Navy for four years, and during the entire period that I served on the lower deck and as a commissioned officer I never once was aware of the practice of homosexuality in the ships in which I served. It was disgusting for the Attorney-General and Minister of Justice to cast a slur on that wonderful service by saying that homosexual practices were quite prevalent in the navy. The Hon. B. J. Unsworth also was in the navy.

The Hon. B. J. Unsworth: My experience was not the same as that of the Deputy Leader of the Opposition.

The Hon. R. B. ROWLAND SMITH: Most probably the honourable member was in a shore establishment. Is there a genuine call from the public for a change in the laws or is this purely a lobby by a radical minority? The law has been established and it is still subject to serious debate both for and against. If there is no clear consensus for a change, that law should not be repealed. I oppose the bill.

The Hon. P. J. BALDWIN [3.43]: I believe this is truly a dreadful bill, but for reasons different from those that the Deputy Leader of the Opposition advanced. I confess to being in somewhat of a quandary over the whole thing. Obviously, from the events that occurred in the lower House last year, it will be difficult to get any type of reforming measure through Parliament. I would completely support the measure in the form originally proposed by the honourable member for Illawarra, and I would support it in its original form, that is to say, with the age of consent the same for homosexual as for heterosexual activities. That is my view of the nature of legislation that I think ought to be introduced. The bill falls vastly short of that, and for that reason I regard it as unsatisfactory.

The bill is unsatisfactory both in its general approach and in a whole range of particulars. It will retain the moral opprobrium that the community is supposed to attach to homosexual behaviour. Buggery and various kinds of public homosexual behaviour

are still considered as offences. That is a grave inadequacy in the proposed legislation. The measure will not substantially change the pattern of police harassment and other assaults on homosexuals that are by-products of the existing laws.

As I listened to the Hon. B. J. Unsworth his underlying attitude to the whole question became clear. He referred to homosexuality as a form of unnatural behaviour that should be actively discouraged, and should be judged to be immoral. I reject that viewpoint. People who have studied philosophy are aware of what is called naturalistic fallacy. That is the fallacy that because something is in some sense natural, therefore it is good. Many human activities are not natural. It might not be natural to wear clothes, to fly in aeroplanes, or to live in air-conditioned buildings, but no one would seriously argue that therefore they are immoral. The same applies to homosexuality. I find that to be an unconvincing case against homosexual behaviour.

I differ from the Hon. B. J. Unsworth in that I find nothing morally unacceptable about homosexual behaviour. I have no hesitation in saying that. Therefore, any attempt to proscribe various forms of homosexual behaviour or to treat them differently from heterosexual behaviour I reject at the outset for that reason alone. But a separate and distinct question arises, and that is that even if one accepts that homosexual behaviour is immoral, is it appropriate for the criminal law to attempt to impose sanctions on it? Again, as I said, that is a logically distinct question. Someone to whom homosexuality is immoral may be opposed to laws proscribing such behaviour.

A famous debate on this question followed the Wolfenden report in Great Britain, the main protanogists being Devlin and Hart. Devlin was the chief advocate of the law continuing to impose a moral code on the community in respect of private consenting sexual behaviour. Hart was perhaps the best known opponent of that viewpoint. The Deputy Leader of the Opposition espoused the Devlin viewpoint which seemed to hinge on the notion of an organic conception of society, that it is bound together by a moral code, and once that is interfered with, however slightly, the whole structure starts to unravel: if the legal system is liberalized, even only with respect to private behaviour where no harm results to others, the moral fibre of society will break down and all sorts of adverse consequences may be expected. I am surprised that he did not talk about the decline of the Roman Empire.

It is necessary to bring to a consideration of this question some conceptual clarity. Obviously, persons who accept biblical authority and biblical proscription of various forms of sexual behaviour may—though by no means all of them do—affirm that the law should reflect that influence. That is a position to which someone could adhere. But the Deputy Leader of the Opposition goes further. It is clear from the debate in the other House that others go further too. They do not just make an absolute value judgment that the law should reflect biblical morals as espoused in biblical sources. They go on to argue that certain consequences flow from the absence of a legal system that imposes a code of private morality. The allegation is made that if society does not have that, the whole structure of respect for law and order, the whole fabric of society, starts to come adrift, and one expects increases in the incidence of all forms of crime, whether connected with private behaviour or not.

The Deputy Leader of the Opposition talked about a general decline in the moral fibre of society. He mentioned all sorts of offences and increases in the incidence of offences that have no relationship to homosexuality. In answer to the argument that legalization of homosexuality causes a breakdown in the fabric of society, I simply say that that is an empirical claim that the Deputy Leader of the Opposition would have to adduce evidence to support. A number of societies have existed both in ancient and modern times that have had no legal proscription on homosexual behaviour, yet there

is no evidence to suggest that the fabric of those societies has broken down. I am unaware of any case in respect of which an attempt has been made to adduce that type of evidence, and I do not believe it could be adduced.

Claims that liberalization of the law relating to homosexuality would lead the whole of society into an abyss are totally insupportable. They are based on the notion that the moral fabric of society is a seamless web, to use Devlin's terminology, and if part of it is interfered with, the whole thing comes undone. I believe it is possible to modify laws pertaining to consensual sexual conduct without all these disastrous consequences. Personally I find nothing morally offensive about homosexual behaviour at all. My view is strengthened by a belief that even if I did find something morally offensive about that sort of conduct I would be against using the legal system to enforce it. It is rather interesting to look at the comments of some of the conservative judicial commentators on this topic, Devlin being the best known in modern times.

The alternative view to the sort of thing Devlin was espousing was put forward in the 19th century by John Stuart Mill. It is the classical liberal view, to the effect that the State has no role in interfering in types of behaviour that do no harm to other parties. He perceived that as meaning that even if people were doing grave harm to themselves, the State had no business interfering. I do not altogether agree with that extreme formulation. Nevertheless, that is the classical liberal position though it is one that I feel few members of the so-called Liberal Party in this State would adopt. Perhaps the most celebrated opponent of that view was a Victorian judge, Judge Stephen. His view was even more extreme than that of Devlin in considering the State's role in the imposition of a private moral code. But even he had to concede, in his book *Liberality, Equality, Fraternity*:

> You cannot punish anything which public opinion, as expressed in the common practice of society, does not strenuously and unequivocally condemn. . . . To be able to punish, a moral majority must be overwhelming.

This is what perhaps the most conservative judicial commentator had to say on this issue. The Hon. R. B. Rowland Smith said there was no clear community mandate. He is obviously right in the sense that no referendum has been carried favouring reform of the laws relating to homosexuality. That statement is true. But, few pieces of legislation carried in this House have received that sort of mandate. What we do have is rather powerful opinion poll evidence. I should like to quote from a poll conducted on 18th and 19th March, 1978, by the Beacon Research Organization. The poll was conducted Australia-wide by Irving Saulwick and Associates and the results were published in the *Sydney Morning Herald* in March 1978. On that occasion 2 000 people were asked this question:

> Should sexual acts between persons of the same sex be treated by the law in the same way as sexual acts between persons of different sexes?

The results were as follows. Of both men and women 57.2 per cent agreed with that proposition; 30 per cent disagreed, and 10.7 per cent neither agreed nor disagreed. A slightly higher proportion of women than men agreed with that statement. Although that survey was perhaps not conclusive, it is relevant and cogent evidence in this debate. It shows quite clearly that public opinion is in favour, not only of decriminalizing homosexual acts committed between consenting adults in private, but also of some form of statutory equality for homosexuals along the lines of the private bill introduced by the honourable member for Illawarra in the other place last year. Bearing in mind the quotation from Judge Stephen, the 19th century commentator on the issue of using the law to enforce morality, it becomes clear, in view of the shift in public opinion that has taken place and is apparently continuing, that the present law

and, indeed, the Unsworth bill now before the House, are anachronistic. The sort of view that is put forward by those who claim to represent community opinion, if subjected to empirical testing, quickly falls apart.

This is a dreadful bill. It goes little of the way towards eliminating discrimination against homosexuals. The offence of buggery will still be in the law. If buggery is committed in public between consenting adults over the age of 18 years, they are liable to a penalty of seven years' gaol—the same as the penalty for rape in its simplest form. That sort of penalty structure is absurd and indefensible. It leaves a great deal of scope for the police to carry on harassment of the homosexual community. The problem of defining what constitutes public behaviour as distinct from private behaviour remains. Admittedly, the bill would tighten that up by referring to grossly indecent public behaviour as distinct from indecent behaviour in public. Although that represents something of a safeguard, it still leaves doubts.

One of the most disturbing aspects of the measure is that the bill is a reaffirmation in a modern context of what I consider to be the anachronism of the right of the State to intervene in matters of private morality. It is one thing to allow various pieces of legislation to remain on the statute book for a considerable period after they have been originally placed there so that they may, in due course, become regarded as dead letters and rarely enforced. But it is altogether different when the Parliament passes legislation that reaffirms those matters. That is the position with this measure. It will provide reaffirmation of the idea that buggery is immoral, that it should be regarded as a criminal offence. There is evidence to support the view that an action of that sort, carrying legislation couched in those terms, may well result in an increase in police harassment of the homosexual community. I assume that all members have seen a letter from the Homosexual Law Reform Coalition?

The Hon. R. B. Rowland Smith: Is there any empirical support for that statement about police harassment?

The Hon. P. J. BALDWIN: I believe there is, but I do not have it available with me. The letter from the coalition reads:

> We are concerned with the discriminatory nature of the "consenting adult males in private" bill because of the English experience where prosecutions of gay men have *increased* since the passage of similar legislation in 1967, because it denies the principle of equality before the law.

The Hon. J. J. Doohan: That has not been the experience in Canberra.

The Hon. P. J. BALDWIN: The honourable member may be right. There may be some difference in experience on that score, but the increase in the United Kingdom was fairly dramatic. It seemed to suggest a causal link between the legislation and the subsequent pattern of prosecutions. That is one grave reservation I have about legislation of this sort. There is some evidence, although it is by no means the same for all situations, that legislation such as this may produce an increase in some types of prosecution. Certain portions of the legislation are particularly offensive. One concerns the reference to public lavatories in the definition of what constitutes a public place. Perhaps one of the more unsavoury things about the present set-up is the whole pattern of police harassment of people in public toilets. It has taken place for a considerable period. We have seen the use of *agents provocateur* and decoy tactics in furtherance of that pattern of harassment. That causes deep concern. To perpetuate that new legislation is definitely a retrograde step. Another part of the legislation that I find peculiarly offensive is the provision making it an offence for more than two people to engage in a consenting homosexual act in private.

I believe that in 1976 an attempt was made by the Hon. R. J. Ellicott when he was the federal Attorney-General to introduce a similar provision in the Australian Capital Territory. He was laughed out by the Australian Capital Territory House of Assembly. The bill before the Parliament is perhaps the most conservative legislative attempt in this country in recent times to amend the law affecting homosexual behaviour. That is a most unsatisfactory state of affairs. I might well agree with the Hon. R. B. Rowland Smith that the total number of people who would receive some relief from prosecution following the passage of a bill of this sort would be far from large. I have before me a copy of a document entitled *Homosexual Offences*, produced by the Bureau of Crime Statistics and Research of the Department of the Attorney-General and of Justice of New South Wales. Page 15 of that document contains a table listing the locations where various kinds of so-called offences of the nature we are considering have taken place; such offences as buggery, indecent assault on a male and an indecent act with a male. The proportion of offences that have taken place in private is 25.8 per cent of the total. In other words, most prosecutions have been in a non-private context. The number of prosecutions that would be affected by the passage of the bill is not high. Even though prosecutions for offences in private are relatively rare under the existing legislation, they are certainly not unknown. There may be occasions when the police while investigating drug offences or even landlord and tenant matters, may arrest people who were involved at the time in homosexual acts in private. But those arrests would be a small proportion of the total number of arrests for homosexual offences.

I have grave reservations about the bill, which is the most conservative reform bill in this area of the law to be introduced in Australia. It allows scope for police harassment of people engaged in this sort of behaviour allegedly in public. It reaffirms, in a modern form, the notion that there is something gravely immoral about homosexual actions and that the State has a role to intervene. All the literature received from organizations concerned with the reform of this law, and the overwhelming weight of material I have received has been hostile to a bill couched in the form of the bill before the House. I referred earlier to a letter that I received yesterday from the Homosexual Law Reform Coalition of New South Wales. It contains this statement:

> Homosexual organizations do not regard "any reform" as better than the status quo. A bill which determines that certain acts in private, currently legal, should cease to be so, also implies that other acts—which may not cause offence—should be enforced by the police. In this sense the Unsworth bill could be retrogressive.

For all the reasons I have enumerated my basic inclination is to vote against the bill. But I have heard it is likely that some attempt will be made to move a range of amendments in the lower House in order to attenuate some of the worst features of the bill. Some supporters of the Petersen bill in the lower House seem to believe that it may be feasible to formulate a set of amendments to improve this very bad bill. I have grave doubts. I do not believe it can be done successfully. Even so, I am willing to cast my vote for the bill in order that it may be canvassed thoroughly in another place. That is my approach to a bill which I regard as a totally unsatisfactory piece of legislation.

Reverend the Hon. F. J. NILE [4.6]: I wish to join in the debate on the Crimes (Homosexual Behaviour) Amendment Bill. It is to be regretted that the Hon B. J. Unsworth, a person of high standing and respect in our community, has brought in this measure as a private member's bill. The honourable member's sponsorship of the bill confers on it a dignity that it does not deserve. In spite of the use of misleading terminology deliberately disseminated by the homosexual activists, their legal advisers

and supporters, such as "The decriminalization of Homosexual Behaviour between Consenting Adults", there is no escaping the fact that the House is debating a bill to legalize the act of sodomy. Let it not be forgotten by any member of this Chamber that in our law that act is described as the abominable crime of buggery.

One must question the order of the Government's priorities in the business it brings to this place. Even though it is a private member's bill, it could not come before the House unless it had the support of the Government. Because it is an issue of conscience for Government members, they have a choice in the method of seeking to bring about changes in the legislation applying to homosexual behaviour. Already the members of the other place have spent 115 hours of debate, recorded on 150 pages of *Hansard* on this issue. A total of 3.85 per cent of the time and effort that went into last year's debates in the Legislative Assembly was concerned with the activities of a very small minority of the people of New South Wales. Of course, if the bill is passed into law, it will be of concern to the majority of our citizens.

Already there are rumours that another bill will proceed to this House from another place. Will the two measures pass like ships in the night? Will this bill be rejected by the permissive wing of the Government, and will the other rumoured bill from another place be rejected by the responsible sections of the Government? Where will it all end? In view of the growing concern in the community over the aggressive actions of militant homosexuals, I believe it will become increasingly difficult, if not impossible, for either measure to be passed by the Parliament. Any bill opening the door to homosexual behaviour, or to encourage it, promote it, or imply community support for it, will be rejected. And so it should be.

During the Earlwood by-election not so long ago only about 100 votes were received by a candidate who was clearly identified as a member of the gay community. I believe that my own huge vote at the last elections, of more than 200 000 primary votes with an almost non-existent so-called donkey vote, was further evidence that the pendulum is beginning to swing in the opposite direction. In my campaign policy and speeches I have expressed strong opposition to any repeal of the law applying to homosexual behaviour. I regard the votes for me as virtually a mini referendum on this issue. Naturally, not all of the 200 000 voters are the only people concerned about this issue. I know that out of loyalty many of my friends and close supporters voted first for the candidate of the party of their choice, and then for independents like me.

In *Time Essay* of 8th January, 1979, it is stated that public opposition is clearly rising against the amending of the law applying to homosexual behaviour as it might be construed that homosexuals are receiving special treatment and homosexuality is being endorsed. The moral majority movement in the United States of America, with millions of supporters, has taken a strong stand on the homosexual issue. They are standing out against the outrageous demands of homosexuals, including their pressure for representation on such public bodies as the police force. It is a pity that the Government is dancing to the tune of the vocal minority groups.

After listening carefully to the speech of the Hon. P. J. Baldwin, I feel that I must comment that one of the great hypocrisies surrounding this issue is that the extreme left is giving total support to obscene homosexual perversions that are forbidden expressly in the main communist or socialist nations of the world. Efforts to prove public support by reference to surveys can be confusing. Most surveys include misleading questions concerning equal treatment of males and females before the law. Naturally, the great majority of respondents, about 64 per cent of them, answer the question in the affirmative without understanding fully the significance of the issue. I recall a headline in the *Age* on one occasion, "Public Support for Homosexual Law

Reform". I wonder whether the public knew what they were being asked on that occasion. If a specific question were asked, "Are you in favour of legalizing sodomy?" I am sure that between 80 and 90 per cent of the community would reply, "No."

I refer now to penalties. Much fuss has been made about the alleged inequality of the penalty of seven years' imprisonment for non-consenting rape and the 14-year penalty for the homosexual act of buggery between consenting adults and non-consenting adults. The matter could be resolved by deleting the word anus from the definition of sexual intercourse in section 61 of the Crimes Act and still leave the references to buggery in section 79 and section 80, whether forced or by consent. Judges can then take all the evidence into account when passing sentence on offenders found guilty. There would be almost no occasions when it would be necessary for a consenting adult to become a witness for the Crown in order to achieve a conviction. Such an event would be most unlikely. Another solution for this penalty problem would be to amend section 79 of the Act to include a penalty of seven years or to increase the minimum rape penalty to fourteen years. Despite a lot of statements concerning a crackdown by the Government on rape, last year's amendment to the law lowered the penalty for that crime to imprisonment for seven years. Hence the dilemma.

The main purpose of this bill is to repeal the buggery provisions in section 79 of the Crimes Act and, except for certain restrictions, to legalize the act of buggery, or sodomy as it is sometimes called. Without offending honourable members, especially the lady members, I feel that it is necessary to remind the House of what buggery is. It is the unnatural, immoral, unhealthy, abnormal act of inserting a male sex organ into the anus of another person, usually a male. No matter what fine intentions the Hon. B. J. Unsworth may have for the passing of this bill—despite the criticism by activists in the homosexual movement that the proposed measures do not go far enough—it would still give the impression of public approval for this act of perversion. It would give the blessing of this Parliament to an act that God describes as an abomination. The literal translation of abomination is something that God hates. It would be a denial of the prayer that we offer in this House to guide us to pass good laws and to do God's will for the welfare of the people of this State and the nation.

As with the bills on this issue that have been debated in the other place, this measure adopts a similar approach to that of the United Kingdom Sexual Offences Act of 1967. It follows the recommendations of the Wolfenden report, namely, that homosexual acts by consenting males in private are not a crime. However, in two vital aspects the bill provides less public protection than either the Egan bill or the United Kingdom Sexual Offences Act. This is because, although 18 years of age is a generally acceptable age, the age of consent for the victim is 16 years, where the person committing the act had reasonable cause to believe and did believe that the victim was 18 years or older. The Egan bill proposed an age of consent of 18 years for both accused and victim. The United Kingdom Act prescribes an age of consent of 21 years for both accused and victim.

The second area of concern about the legal aspects of the bill is that the offences of soliciting, inciting or attempting to solicit or incite would be abolished. The Egan bill and the United Kingdom Act retain the offences of soliciting and inciting. If one accepts the rationale advanced in the Wolfenden report, that acts of private immorality are not the legitimate concern of the criminal law—and this appears to be implicit in the Unsworth bill—it is imperative, from the aspects of public policy and public decency, that the law be firm in insisting that there be no public manifestation of such conduct and there be no public consequences of that conduct. In other words, if private immorality is to be excluded from the ambit of the criminal law, it should likewise be excluded from other aspects of the public life of members of society.

Reverend the Hon. F. J. Nile]

This means that the public should be protected from all consequences of private immorality. This protection embraces the physical and moral welfare of the community, especially for those members of society who are particularly vulnerable to exploitation or undue influence. The youth of society fall within the category of sections of society deserving particular protection.

For this reason the selection of the appropriate age of consent is critical. The selection of 21 years included in the United Kingdom Act is justifiable on grounds related only to the contractual capacity. A reference to ages of competence or voting franchise or general contractual capacity, including marriageable age, does not provide an appropriate precedent for selecting a proper age of consent for protection from sexual exploitation or undue influence. Accordingly, the higher age of consent provides the greater public protection. Regrettably, the bill fails to provide this level of protection for young people here.

For similar reasons the proposal to abolish the crimes of soliciting and inciting means that there is no legal control on confining immoral conduct to conduct in private. The abolition of these crimes almost certainly means that the homosexual conduct and influence will swamp and saturate our public life. A previous contributor to the debate said that the actions of a man soliciting a woman can be justified and therefore we should not be concerned about a man soliciting another man. All honourable members know that most men react strongly to such a proposition. This failure to provide any measure of public protection undermines the bill. If public protection were sought seriously, the crimes of soliciting and inciting should not only be maintained, but also the measure of public protection afforded by the present law should be reinforced by amendments to the law to prevent all forms of promotion of and recruitment into the homosexual lifestyle.

I wish to raise two questions that may be answered in reply by the Hon. J. B. Unsworth in relation to proposed section 81BA. First, why should the prosecution have the onus of proving lack of consent? Second, the elements of the criminal defence referred to in paragraphs (a), (b) and (c) (i) and (c) (ii) of proposed section 81BA (1) should be expressed so that the prosecution need establish only the existence of one of those elements. Why should the bill be rejected? Even though some restrictions would apply, the proposed measure would give legal status to the act of sodomy. Sodomy or buggery should not be given any parliamentary support or endorsement for it is immoral. Strong statements have been made on this matter by church leaders, including Cardinal Sir James Freeman, the Catholic Archbishop of Sydney. He said on this issue.

> 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. You cannot equate the homosexual lifestyle with that of the marriage relationship in which a man and a woman are charged with a responsibility of procreation and rearing of children. The proposed changes are not in accordance with the views of citizens and must be seen as seeking respectability for a whole lifestyle not merely to decriminalize isolated conduct.

A similar statement was issued by Archbishop Sir Marcus Loane in these terms:

> Homosexual conduct is wrong at the age of sixteen; it is wrong at the age of eighteen; 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 fourteen 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. But it goes far beyond

> that. If it is passed, it will give those who engage in homosexual practice a legal recognition and social status which has never before been thought desirable. Homosexual conduct is actively promoted in gay literature. It is revolting, degrading, subversive of family life and destructive of society. For these reasons the bill ought to be rejected.

The Council of Churches in New South Wales, which represents the major protestant churches, opposes in principle the legalizing of homosexuality between consenting adult males in New South Wales. The council believes that section 79 of the Crimes Act should be retained until any anomalies are corrected. The council believes, also, that the practice of homosexuality is a threat to society, subversive family life and contrary to the word of God. Further, the council is of the opinion that any change in the age limit will not alter its position in any way. Though I shall not read to honourable members all of the other statements that I have, I should like to table the one I have from the Dean of St Andrew's Cathedral, the Reverend Lance Shilton.

The PRESIDENT: Order! Is the honourable member seeking leave to incorporate a document in *Hansard*?

Reverend the Hon. F. J. NILE: Yes.

Leave granted. [*See Addendum.*]

Reverend the Hon. F. J. NILE: Another statement that I believe is relevant to the debate and has not been referred to in detail in this House, or in the other place, is a declaration on certain questions concerning sexual ethics issued by His Holiness the Pope through the Sacred Congregation for the Doctrine of the Faith, which draws certain conclusions. The document is headed "Homosexual Relations" and is an authoritative statement on behalf of the Catholic church throughout the world. It is as follows:

> At the present time there are those who, basing themselves on observations in the psychological order, have begun to judge indulgently, and even to excuse completely, homosexual relations between certain people. This they do in opposition to the constant teaching of the Magisterium and to the moral sense of the Christian people.
>
> A distinction is drawn, and it seems with some reason, between homosexuals whose tendency comes from false education, from a lack of normal sexual development, from habit, from bad example, or from other similar causes, and is transitory or at least not incurable; and homosexuals who are definitively such because of some kind of innate instinct or a pathological constitution judged to be incurable.
>
> In regard to this second category of subjects, some people conclude that their tendency is so natural that it justifies in their case homosexual relations within a sincere communion of life and love analogous to marriage, in so far as such homosexuals feel incapable of enduring a solitary life.
>
> In the pastoral field, these homosexuals must certainly be treated with understanding and sustained in the hope of overcoming their personal difficulties and their inability to fit into society. Their culpability will be judged with prudence. But no pastoral method can be employed which would give moral justification to these acts on the grounds that they would be consonant with the condition of such people. For according to the objective moral order, homosexual relations are acts which lack an essential and indispensible finality. In Sacred Scripture they are condemned as a serious depravity and even presented as the sad consequence of rejecting God. This judgement of Scripture does not of course permit us to conclude that all those who

> suffer from this anomaly are personally responsible for it, but it does attest to the fact that homosexual acts are intrinsically disordered and can in no case be approved of.

Though church statements are important, it should be remembered that those statements are based on the teachings of the church that have come from the Holy Scriptures. I shall quote a few brief sections from the Bible, which is described as recording the Judeo-Christian ethic and is the basis of the Jewish faith and the Christian faith. It incorporates the moral ethos that comes under the general umbrella of Christianity. Some persons argue that it is progressive to introduce this type of legislation; that it is looking ahead and moving ahead. I suggest that it is looking backwards and going in reverse. It looks back further than the last century, right back to the beginnings of recorded history. In Genesis 19 appears the first reference to acts of homosexuality and the derivation of the words sodomy and sodomites. From the point of view of accuracy that reference is regarded even by non-Christian historians as one of the first pieces of historic writing. In Genesis 19 the story is told of two visitors who came to the city of Sodom. Lot invited the two men to his home. I shall continue the story as recorded in verse 4:

> After the meal, as they were preparing to retire for the night, the men of the city—yes, Sodomites, young and old from all over the city—surrounded the house and shouted to Lot "Bring out those men to us so we can rape them."
>
> Lot stepped outside to talk to them, shutting the door behind him. "Please, fellows," he begged, "Don't do such a wicked thing. Look—I have two virgin daughters, and I'll surrender them to you to do with as you wish. But leave these men alone, for they are under my protection."
>
> "Stand back," they yelled. "Who do you think you are? We let this fellow settle among us and now he tries to tell us what to do! We'll deal with you far worse than with those other men." And they lunged at Lot and began breaking down the door.

In the following verses one reads that the judgment of God fell on that city, which is described frequently in the book of Genesis as being very wicked. I believe its wickedness is related to the unnatural act of sodomy. Verse 23 continues:

> The sun was rising as Lot reached the village. Then the Lord rained down fire and flaming tar from heaven upon Sodom and Gomorrah, and utterly destroyed them, along with the other cities and villages of the plain, eliminating all life—people, plants and animals alike.

That is one reason why the church has reflected so strong a position on homosexual behaviour and has not compromised on it. Some persons have asked me why God acted in that way. The simple answer is that the behaviour was wicked. I venture to suggest that the act of sodomy is an act of rebellion against the creative act of God.

God made man and woman, and through man and woman we have the continuation of the human race. Two people engaging in sodomy, or buggery as it is known in the law, are rebelling against the very purposes and plan of God. That is why God feels more strongly about this behaviour, as evidenced in the biblical record, than many people feel today; perhaps even more strongly than I feel, and my feelings about it are firm. It is not possible for us to put ourselves into the mind of God. In the eyes of God, the Creator, there is something basically objectionable about homosexual acts. I do not think we fully understand it, but it has something to do with God's creative purposes for mankind. If in the beginning homosexuality had become an accepted lifestyle, we would not be here today. It is related

to God's ongoing purposes. I shall read one or two verses from Leviticus. I refer first to 18:22. "Homosexuality is absolutely forbidden, for it is an enormous sin". In the same chapter, verse 27, these words appear:

> Yes, and all these abominations have been done continually by the people of the land where I am taking you, and the land is defiled. Do not do these things or I will throw you out of the land, just as I will throw out the nations that live there now.
>
> Whoever does any of these terrible deeds shall be excommunicated from this nation. So be very sure to obey my laws, and do not practice any of these horrible customs. Do not defile yourselves with the evil deeds of those living in the land where you are going. For I am Jehovah your God.

In other words, this is not something new. When the people of Israel came to the promised land they were surrounded by other cultures that practised sodomy. It was an evil practice in those nation and God was concerned lest it be initiated and practised by the Jewish people, His chosen people. In Leviticus 20:13, another reference to this behaviour appears:

> The penalty for homosexual acts is death to both parties. They have brought it upon themselves.

I shall quote a few further passages before answering questions that may be in the minds of honourable members as to whether I am advocating the death penalty. I should like to make my position clear. In Romans 1:26 the New Testament reference to homosexuality is just as strong as the reference in the Old Testament, without referring to the death penalty. This is an explanation of the Apostle Paul, one of the leading teachers of theology and doctrine in the early church. I quote from 1:26:

> That is why God let go of them and let them do all these evil things, so that even their women turned against God's natural plan for them and indulged in sex sin with each other. And the men, instead of having a normal sex relationship with women, burned with lust for each other, men doing shameful things with other men and, as a result, getting paid within their own souls with the penalty they so richly deserved.

The Deputy Leader of the Opposition spoke of the various diseases that may be contracted during homosexual acts. It may be that, though they did not realize it, homosexuals were being paid within their own souls, for that was the penalty. The Apostle Peter, regarded by many as the foundation apostle of the church, made the same strong points on Sodom and Gomorrah. We are not left in any doubt of what he was talking about. In Second Peter 2:3, he said:

> These teachers in their greed will tell you anything to get hold of your money. But God condemned them long ago and their destruction is on the way. For God did not spare even the angels who sinned, but threw them into hell, chained in gloomy caves and darkness until the judgment day.
>
> And he did not spare any of the people who live in ancient times before the flood except Noah, the one man who spoke up for God, and his family of seven. At that time God completely destroyed the whole world of ungodly men with the vast flood. Later, he turned the cities of Sodom and Gomorrah into heaps of ashes and blotted them off the face of the earth, making them an example for all the ungodly in the future to look back upon and fear.
>
> But at the same time the Lord rescued Lot out of Sodom because he was a good man, sick of the terrible wickedness he saw everywhere around

> him day after day. So also the Lord can rescue you and me from the temptations that surrounds us, and continue to punish the ungodly until the day of final judgment comes.

That sets an example for the ungodly. Sodom and Gomorrah is not a story for the godly; the godly should not be engaged in these activities, but these judgments were a warning to the ungodly, those who do not believe in God. Parliament has a serious responsibility when passing or repealing laws directly related to their source—the Holy Scriptures. At the end of the New Testament in the book of Jude a number of further references to homosexuality appear. The writer took up the story of Sodom and Gomorrah. In verse 7 he said:

> And don't forget the cities of Sodom and Gomorrah and their neighbouring towns, all full of lust of every kind including lust of men for other men.

He is clearly identifying the reason for the destruction of those cities and he continues:

> Those cities were destroyed by fire and continue to be a warning to us that there is a hell in which sinners are punished.

The Hon. B. J. Unsworth admitted that the homosexual act of sodomy is condemned by God, the Bible, and the church, but he failed to recognize the link between the Bible—the Judeo-Christian ethic—and the laws passed by this Parliament. Mistakenly, he sees a distinction between law and morality, and between sin, crime, and law. Our laws have been and should be based on God's law, the Judeo-Christian ethic. I could develop that argument further, but the most recent census showed that 78 per cent of people replied that the Chrisian faith was their religion, indicating that the vast majority of people in Australia embrace the Judeo-Christian ethic. They may not be perfect in their application of it, but the nation is based on that foundation.

If I lived in Burma I would respect the fact that that country's laws are based on the teaching of Buddah; or if I lived in Egypt, that country's laws would be based on the teaching of Mohammed. But Australia is a Christian country, as reflected by the census. Therefore, its laws have been and should be based on God's law as expressed in the Bible and described as the Judeo-Christian ethic. No one would suggest that the penalties should be the same as those mentioned in the Old Testament. However, it is one thing to reduce a penalty from the death penalty to a suitable prison sentence or a fine. It is quite another to abolish the crime and to imply community and parliamentary approval for the act of sodomy between two consenting adults. Extracts from the Gospel of St John were read to the House by the Hon. B. J. Unsworth, showing how Our Lord dealt with sinners. Jesus was neither a magistrate, a policeman, nor a member of Parliament.

The Hon. H. B. French: He was a carpenter.

Reverend the Hon. F. J. NILE: That is correct. His mission was to seek and save that which was lost. He was not to be diverted from His mission by trick questions. In response to a question put to Him about the adulterous woman He replied, "Go, and sin no more." The bill will shift the emphasis of Jesus' intention to read "Go and sin some more." Jesus and the Bible nowhere attack the roles of the courts, the law, or magistrates. It is a false analogy to say: "Here is Jesus. He forgives people. Therefore we should not have any laws." I understand that analogy more than does the Hon. B. J. Unsworth, for I am a minister of religion and a member of Parliament.

I see a distinction between what Jesus says, what I say as a Christian, and the responsibility of Parliament, governments, magistrates and the courts. The Apostle Paul in the thirteenth chapter of his letter to the Romans said words that are important for me and also for all members of the House:

> Obey the Government, for God is the one who has put it there. There is no government anywhere that God has not placed in power.

That is the teaching of the Bible. The quotation continues:

> So those who refuse to obey the laws of the land are refusing to obey God, and punishment will follow.
>
> For the policeman does not frighten people who are doing right; but those doing evil will always fear him. So if you don't want to be afraid, keep the laws and you will get along well.
>
> The policeman is sent by God to help you. But if you are doing something wrong, of course you should be afraid, for he will have you punished. He is sent by God for that very purpose. Obey the laws, then, for two reasons: first, to keep from being punished, and second, just because you know you should.

St Paul's letter to the Romans effectively answers the Hon. B. J. Unsworth's reference to the adulterous woman. Homosexuals have come to me because they know I am deeply involved in this issue. They have begged me to give them some form of forgiveness or blessing provided that they could continue to commit sodomy. That is asking for God's blessing and forgiveness while continuing to sin. I am then placed in a difficult position. I have said to them that I do not have the authority to change the word of God; no man has the authority to change the clear absolute standards of God the Creator.

Every day in this House we pray for the guidance of God. I exhort members of this House to read Lord Devlin's book. He was a famous English lawyer, member of the House of Lords, and a distinguished judge. Lord Devlin's book contains a chapter that deals with morals and criminal law. He discusses the Wolfenden report and its implications in great detail. Lord Devlin says in his book, *The Enforcement of Morals*:

> Morals and religion are inextricably joined——the moral standards generally accepted in Western civilization being those belonging to Christianity.

It is not Fred Nile who says that but a famous law lord. Lord Devlin continues:

> The criminal law of England has from the very first concerned itself with moral principles . . .
>
> In a number of crimes the function of the criminal law is simply to enforce a moral law or moral principle and nothing else. The law, both criminal and civil, claims to be able to speak about morality and immorality generally. Where does it get its authority to do this and how does it settle the moral principle which it enforces? Undoubtedly, as a matter of history, it derived both from Christian teaching.

I support Lord Devlin's contention that it is difficult, if not impossible, to separate private and public morality. Lord Devlin continues:

> It is no more possible to define a sphere of private morality than it is to define one of private subversive activity. It is wrong to talk of private morality or of the law not being concerned with immorality as such or to try to set rigid bounds to the part which the law may play in the suppression

> of vice. There are no theoretical limits to the power of the State to legislate against treason and sedition, and likewise I think there can be no theoretical limits to legislation against immorality.

Despite the remarks of the Hon. P. J. Baldwin, Lord Devlin says that history shows that the lessening of moral bonds is often the first stage of the disintegration of society. I support that concern and belief. The purpose of the criminal law on moral issues is to act as a deterrent and to protect society. It acts as a teacher. Though the measure is a private member's bill, it reflects concern within the Government. The Government has stressed that many pieces of legislation amending the law have the same effect as a schoolteacher. The Government does not want to put people in prison for polluting the air or making excessive noise. The Government does not want to discriminate against women or people of other nationalities, but it hopes that the laws will teach people a better way of life. I support the principle that the law is like a schoolteacher. Teaching is an important part of the law—perhaps more than we realize. The Crimes Act, in particular section 79, teaches our society about a most important issue. I have shown that the homosexual act of sodomy is immoral. It is against the community interests and the best interests of our law and society. The Hon. R. B. Rowland Smith said that homosexual acts are unhealthy. I shall not weary the House by dealing with that aspect in detail.

The Hon. B. J. Unsworth, as a trade union official, is deeply concerned about the quality of life of the people of New South Wales. I know that he is a moral man. Even if the moral issues and biblical teaching were put aside, there would be a strong case to justify retaining the present legislation. Homosexual practices create serious health hazards. A medical crisis could arise, for doctors I have spoken to say that there is a pandemic of disease through homosexual acts. If the legislation before the House, unfortunately, were passed, future members of Parliament would look back and say, "How strange that the legislation was passed and health hazards completely ignored". The present law should be retained.

Firsthand reports have reached me from staff at Sydney Hospital about homosexual men they have had to treat. Some members of the staff have had to handle men with serious venereal diseases, the result of their homosexual acts. I understand that on Saturday nights when the hospital is busy the sisters and nurses have to experience terrible things in carrying out their duties treating men suffering from serious venereal diseases in the anal area. The nursing staff emphasize how they must virtually disinfect ward after ward after giving treatment, opening abscesses and so on. They deliberately withhold treatment of such people until all other patients have been treated first. That is another reason why we should retain the law, so that we may assist such men to seek psychological help. When I speak of that I do not mean electrical treatment but normal psychological and medical counselling which will help them overcome their homosexual tendencies.

Homosexuals may regard this Parliament as saying it does not like their behaviour but will accept it. They may regard that as encouragement to continue with their behaviour and refrain from seeking help. A large number of such men have sought help, are seeking it, and are being helped. I am most anxious that that should continue. Of course, militant homosexuals do not want them to accept help. They regard those who do as being traitors to the gay movement. I have had homosexuals who have come to me—and this may surprise members of the House—crying. One young man I met I had seen at gay demonstrations. He was crying. He virtually leaned on my shoulder and expressed his whole unhappiness. He wanted to be left alone—not by me, not by the Parliament, but by the homosexual movement. They were oppressing him, trying to force him to join in certain activities, to be in the movement.

He is about thirty years of age. He said he wanted to be left alone; he was happy by himself and wanted to be left alone. I felt much sympathy for that young man for he had shed tears and had expressed his concern to me.

What we are facing in New South Wales and in the Western world, but apparently not in the Union of Soviet Socialist Republics or the Chinese People's Republic or in any other country adhering to socialist principles, is a homosexual offensive. Within that statement there is a political or ideological aspect which I know the media have great trouble understanding. It is my belief that there is a connection between homosexuality and communism. We know that there are communist homosexual groups. We have the Red Lavender group—red for the male and lavender for the female. When I have debated with members of the group I have said to them that I would hope they did not win in their cause because, if they did, the Marxist State would be upon us and they would be all locked up. I have asked them whether they understand the significance of that. They do not want to understand it. There is the same ideological pressure present also within this debate. I believe this Parliament has experienced some of that pressure and is doing so even now in this House with this bill.

We are facing a homosexual offensive for several reasons, not the least of which is the number of people making money out of the gay liberation homosexual groups. I believe they would like to see the Act amended so that they could promote gay activity for their own financial benefit. That is already happening in Sydney. The homosexuals in Sydney are being used, as is admitted in their own literature, as nothing better than cannon fodder in a political campaign and also as cannon fodder for those who like to make money out of them. This latter aspect is borne out because homosexuals in Sydney are catered for by at least a dozen gay discos and five hotels. They also have homosexual counselling services. Homosexual magazines and newspapers flow out in large numbers, even to suburban newsagencies.

What is the Government's reaction to this homosexual offensive? Where is the persecution of homosexuals? Where is the oppression of homosexuals in this city? I am involved with moral issues, and I do not see it. Members of the police force have reacted with tolerance when provoked by homosexual groups. They could have arrested some for breaking the law, but they did not. Homosexuals have been given tremendous scope for their activities. I see no persecution but rather a promotion of homosexuality. That is confirmed by the publication I mentioned earlier, *Young, Gay and Proud.* I am pleased to learn the Government has withdrawn that from State schools. Until recently, however, that book was still being sold by the New South Wales Teachers Federation. I have receipts which show that is so.

I was disturbed that some Teachers Federation representatives denied that the publication was sold by the federation. These receipts come from the New South Wales Teachers Federation of 300 Sussex Street, Sydney 2000. The telephone number is shown. The receipts are signed by someone with the signature K. M. Schmidt or some similar name. I am not having a shot at that person. I am simply trying to confirm what was previously denied, and I am taking up the challenge to show that what I have said is true. That publication *Young, Gay and Proud,* was banned by the Government at State schools. It was a restricted publication produced by some schoolteachers with the aim of promoting this activity in our schools and community. Where is the persecution? What we are facing is promotion.

Earlier I mentioned films which have the object of dealing with sex education in primary schools. One was "Learn About It" and I have recently seen another series produced by Film Australia, a federal body, called "Growing Up". We are told these

films deal with problems of homosexuality, lesbianism, abortion and so on. I was amazed. They simply promote it. They show how a young girl of only fifteen years can have an abortion. They show how a young man can live with his homosexuality. They show a young man embracing another. This was a film which was designed supposedly to help young people overcome their problems. I believe the gay liberation movement should have been given the bill for that film. It was a promotional film and nothing else.

Where is the oppression? Where is the persecution? Where is the prosecution? We might even argue whether heterosexuals are under pressure from the homosexual forces in this city. They are out of all proportion to the number of people living in this State. I gather this is so because many homosexuals are migrating to New South Wales, feeling it is a homosexual sanctuary with a homosexual capital. Regularly I read material from the homosexual movement in Sydney and overseas. On one occasion I was amazed to read that in the United States of America they regard New South Wales as being one of the most progressive States in the world in its attitude to homosexuality.

The American publication said that the homosexual movement has made more progress in New South Wales than it has in the United States of America. I find that hard to believe, but that is the American statement. Examples were given. One reference was made to the policies of the New South Wales Teachers Federation. Other organizations may be involved, but I am not aware of them. There may be some truth in the statement in that American publication and, if so, that shows where we are headed in New South Wales. The United States of America was thought to be the leader in homosexual activity. But, perhaps we are leading it, not this House itself but our society, without realizing it and without knowing how serious the matter is within the context of what I have been putting. It is not an isolated situation. It is like the trigger of a gun or the fuse of a bomb. I do not know whether the Hon. B. J. Unsworth or other Government supporters who are in favour of this bill fully understand its implications, and those of similar bills which have been before the other House.

I could spend a lot of time proving the interest that the homosexual groups have in young people. I know they deny it, but there is much material—and I have referred to some of the publications already—that brings home this point. One statement in *Stallion* No. 12, a homosexual publication in this city, has stayed in my mind since I read it. It was:

> The time has come to face the fact that there is a sizeable minority of gay men who are primarily interested in sexual relationships with adolescents. The child must move away from the family unit of the Christian West. Loving a child and expressing it sexually is revolutionary activity.

Also we have had reports from the Queensland police force concerning a group called Sybol. That group was formed out of a normal—using the word normal in the way that homosexuals use it—homosexual conference; not a special conference, but their annual conference. At the sixth national conference a group of paedophiles, who were members of the homosexual conference, formed themselves into a sub-group called Sybol. So there is a link between the sixth national homosexual conference and paedophiles attending the conference. A paedophile is a man whose attraction is to young boys. He is not attracted by young men at all. So there are paedophiles within this group and though homosexuals say they are not interested in young boys, within their own ranks they have people who admit they are. This does not apply to every

homosexual; only those who have this particular inclination are described as paedophiles. It literally means boy-lovers. I am concerned about this group. Honourable members will be interested to hear the views that this group has expressed. I shall quote a section which says:

> The situation we find ourselves in at this stage is very much the position gays experienced ten to fifteen years ago and the greatest difficulty is just getting things going.

That is an excerpt from a Sybol newsletter, a confidential document which fell into the hands of the police. The point they are making is that ten or fifteen years ago we would not have had gay discos, gay hotels and so on. We now have all those things. We would not have been debating two bills in the other place last year and now in this Chamber this bill. But this group is saying: "Be patient, paedophiles of Sydney, we will just have to go through the same process. It will take a little time, but eventually we will be accepted". I am very concerned—I know we can talk about domino theories and so on—that when legislation of this type is passed and one might say that the homosexual issue has ceased to be an issue, we shall find bills being presented on behalf of the persecuted minority of paedophiles in Sydney. I believe we will. The question for the Parliament is, where do we draw the line? Do we draw it now at what is clearly abnormal, unnatural, immoral and unhealthy behaviour, or do we bend the line a bit and include it? Then where do we draw the line next year or in two or three years' time? It will be very difficult. In the statement that was sent out by this paedophile group, they warn the receivers of the bulletin by saying:

> As you will realise, paedophilia is regarded as a terrible crime and we therefore request that you treat this correspondence as not for general distribution but with the sympathy and discretion it requires.

Of course, paedophiliacs do not regard it as a crime. I have received a letter from the homosexual groups in Sydney, because I have raised this issue before, saying that from their viewpoint this Sybol group has now been disbanded. I have no evidence that it has been disbanded, but I gather that it has been an embarrassment to the various gay liberation groups in Sydney and probably they have brought about the disbandment of that group. I state simply that I have been advised that the group has been disbanded. I have no evidence that it has been. I merely respect the views of those who advised me. Otherwise they may think that I am concealing information from the House.

We hear statements suggesting that homosexuals are born like that and we must accept them. The persons who make these statements are clever—this may be a matter that other members will take up in this debate—at linking the homosexual issue with the women's rights issue, the black rights issue and so on. I cannot see the slightest connection between women's rights, black rights and homosexual rights. We believe the homosexual issue is totally separate and different in type and kind from the women's rights issue and the black rights issue, both of which I accept. But, I do not accept that the homosexual issue should be placed on the same level as those two important issues. The evidence I have studied on this issue over almost eight years supports my belief that homosexuals are not born homosexuals in the way that a person is born a woman or black. Homosexuals are socially and environmentally formed. It is learned behaviour through behaviour modification which can be easily transferred to impressionable or sexually immature adolescents, especially just prior to puberty.

Reverend the Hon. F. J. Nile]

That is the position in the House today. We are also concerned about the possibility that if this bill is passed we shall have to face further demands from the various homosexual groups. These demands are not Fred Nile's myths; they are taken from submissions that I have seen and studied—submissions that have been sent to the federal Government and the State Government. The submissions are very well presented and are arguing for the recognition of homosexual marriages between two males, homosexual child adoptions, homosexual divorces in the Family Law Court—so the Family Law Court might have to decide who gets the flat, and so on—the right of openly practising homosexuals to join the army, the navy, the air force and the police force, and the right of homosexuals within those forces to have compassionate leave to go home to visit their homosexual partner. I could go on and on. These demands are already in print. They are before various government bodies and so on. What I am saying is not intended to create a sense of fear: it is based on facts.

My last point is that often we hear the statement that the State has no place in the bedrooms of the nation. This is another myth that is raised whenever we come to discuss bills of this type. I suggest that the supporters of this bill did not hesitate last year to back enthusiastically the rape in marriage legislation. I believe the State does have a right in the bedrooms of the nation. Incest, sexual abuse of children, physical abuse of children and wife bashings are all happenings in the bedrooms of the nation. We do not hesitate to deal with these things. Why should we suddenly try to draw the line here and say that there is such a thing as this act between consenting males in private in their bedrooms and the State is not concerned with it?

When I make that remark I am not in any way suggesting a witch hunt, knocking on doors and searching out people. I am not in favour of that. But I believe the law should be retained. It is a schoolteacher. It is teaching us something. It is also serving as a buttress against further pressure from the militant homosexual groups within our society. If this bill is passed, no matter what we say in this House, the headlines of the *Daily Mirror,* the *Sun* and various other newspapers will imply that this House has given approval and endorsement to this unnatural act. Also it will help to relieve the guilt feelings that some homosexuals experience because they know that homosexual acts are condemned by God, and it will thereby discourage sincere homosexuals from seeking professional help and counselling. I believe this bill and any bill like it will open the door for a homosexual offensive in this State, the like of which has never been seen anywhere else in the world.

As I have already said, the fanatical support for homosexuality by the New South Wales Teachers Federation has already been commended by homosexual groups in the United States of America and elsewhere, who regard New South Wales as setting the pace for homosexual rights around the world. If we adopt this bill, we will be setting a dangerous precedent. We will create an unbridgeable gulf between State laws and Christian morality as stated in the message from Cardinal Sir James Freeman; it will be a betrayal of all that is good and holy; it will make a mockery of our parliamentary prayers when we seek the guidance and will of God. I trust that my parliamentary colleagues will not support the private member's bill of the Hon. B. J. Unsworth but will continue to support Christian values, public and private morality, family life and child protection.

Addendum

The question of homosexual behaviour superficially discussed over recent years at the instigation of the 'gay' liberationist lobby is of far-reaching consequence to the importance of the traditional family as a basic unit of society. The integrity of marriage is a life-long relationship between men and

women and the interests of children in the development stages of their sexuality.

Homosexual and heterosexual behaviour cannot be considered on an equal basis because homosexual behaviour is unnatural and contrary to the clear teaching of the Bible.

Homosexual aberration requires understanding and counselling but not licence and legalisation.

To treat homosexual activity as normal is to act against the best interests of the homosexuals themselves.

Many in the community, particularly young people, have become confused about the true nature of homosexual behaviour because of euphemistic jargon.

The legal sanctions at present act as a useful deterrent in protecting innocent people from being solicited and manipulated and in making it clear that there is something seriously wrong about such behaviour. It provides some protection particularly for school boys, service personnel and prisoners.

The Christian message is clear that forgiveness is available to all including those guilty of committing sodomy, adultery, fornication or bestiality as well as to those guilty of self-righteousness, selfishness or sensuality.

Let us be careful, not be hoodwinked in the present debate by sophisticated legal arguments, complicated parliamentary language or sentimental substitutes for long-term compassion to all.

Let get our thinking straight by referring to our Bibles again and by using a prayer like this,

> Father God, the lover of all, we pray for those with homosexual tendencies. Give them grace and courage to overcome their problem. Provide them with the help they need in the fellowship of the Church. Prevent the passing of any legislation which would make it more difficult for them and for others. Keep us mindful of your love for all, beautifully expressed by Jesus Christ, who offers to all who trust Him, full forgiveness and complete renewal. Amen.

The Hon. R. D. DYER [5.10]: I support the bill introduced by my colleague the Hon. B. J. Unsworth who, in my view, has shown considerable initiative and courage in preparing this measure and accepting responsibility for its carriage. After the events of late last year in another place it would have been easy to take the stand that reform of the criminal law relating to homosexual conduct should be allowed to rest. However, the Hon. B. J. Unsworth has recognized that the state of the law in this area is unsatisfactory and that a concerted attempt should be made to reform the law along moderate lines. Though it recognizes that buggery should remain a crime where consent is lacking, public decency is offended or minors are involved, the measure of the Hon. B. J. Unsworth effectively decriminalizes homosexual acts between consenting adults in private.

Homosexual crimes first became a matter for the secular courts in England in 1533 when a statute was introduced cited 25 *Henry* VIII, Chapter 6, making sodomy punishable by death. This penalty remained unaltered until the 19th century when the maximum penalty was reduced to life imprisonment. The Offences Against the Person Act, 1861, section 61, which remained in force until 1956, provided that

those convicted of the abominable crime of buggery, committed either with mankind or any animal, shall be liable, at the discretion of the court, to imprisonment for life. In English law buggery of humans has always meant anal penetration; and both the active agent and the passive recipient who voluntarily participated in the act are guilty of the crime. The offence of buggery may equally well be committed by man on woman, or even husband on wife, as by two men.

In the 19th century in England homosexual activities, falling short of buggery, appear to have been free of criminal sanctions provided they did not involve children, violence or public indecency. However, in 1885 a bill was introduced to make further provision for the protection of women and girls and for the suppression of brothels. In debate on the bill, which dealt primarily with raising the age of consent for girls from thirteen to sixteen, Henry Labouchere, M.P., introduced a new clause making indecent acts between males in public or in private a criminal offence. From then on all sexual acts between males of any age became offences of gross indecency punishable by two years' imprisonment under the Criminal Law Amendment Act, 1885. Contemporary English law on sexual matters is principally governed by the Sexual Offences Act, 1956. This legislation consolidated offences previously dealt with under various statutes but did not change the substance of the law. Any sexual touching of a child of either sex under the age of sixteen is defined and punishable as indecent assault regardless of whether the child resists or encourages the offences. However, the maximum penalties differ, being two years' imprisonment if the victim is a girl and ten years' imprisonment if a boy. In the case of homosexual activities with boys, the maximum penalty for buggery is life imprisonment regardless of whether the object of the offence solicited, consented to, or resisted the behaviour.

Following the report of the Wolfenden committee in 1958, the Sexual Offences Act, 1967, finally removed the legal penalties for homosexual acts in private between men over twenty-one. Except for offences with boys under sixteen the Act abolishes the anomaly whereby anal contacts carry more severe penalties than other types of sexual connection. The Act prescribes penalties for benefiting from the earnings of male prostitution and for procuring men for homosexual acts. All homosexual acts, whether buggery, gross indecency or attempts to procure gross indecency committed by men over twenty-one with youths of sixteen up to twenty-one, even though the youth willingly participates, incur penalties of up to five years' imprisonment for the older man. For buggery or indecency with boys under sixteen the existing penalties, including life imprisonment, remain unchanged. Homosexual acts, whether of gross indecency or buggery committed by a youth under twenty-one with a consenting partner of any age over sixteen now incur a penalty of up to two years' imprisonment, but youths under twenty-one are not proceeded against without the consent of the Director of Public Prosecutions.

I have taken some time to outline the legal position in England as our law, including criminal law and procedure, traditionally has been based upon and has evolved from English law. Also, the reforms enacted in England in 1967 followed and reflected quite faithfully the recommendations made by the detailed and searching inquiry conducted by the Wolfenden committee. By way of comparison, in European countries where homosexual acts between consenting adults are not in themselves crimes, an age has been fixed below which legal consent cannot be given. In France, this age has been set at twenty-one. In Denmark the age is set at eighteen; in Greece at seventeen; and in Italy, Norway, Switzerland and the Netherlands at sixteen, and fifteen in Sweden. American laws governing sexual conduct vary from State to State. The only sexual act which is nowhere a crime in the United States of America is plain copulation between

man and wife. Other forms of marital love-play, and pre-marital or adulterous sexual behaviour are crimes in one State or another. However, only the anti-homosexual laws are widely enforced or backed by public opinion.

Dr Donald West, in his book *Homosexuality,* notes that contemporary laws governing sex conduct descend directly from ancient religious codes. In ancient times Jewish religious institutions included the kadesh or male homosexual temple prostitute, and is referred to in 2 Kings 23:7. After the return from exile in Egypt the Jews came to regard all homosexual practices as foreign, pagan and idolatrous. In Leviticus 20:13 it is stated categorically in a well-known passage:

> If a man lie with mankind as with womankind, both of them have committed an abomination; they shall surely be put to death.

It might be instructive for me to indicate to the House that the same chapter of Leviticus also prescribes the death penalty for a number of other offences including adultery, bestiality and cursing one's father or mother. Leviticus 22:1, for example, reads:

> And the man that committeth adultery with another man's wife, even he that committeth adultery with his neighbour's wife, the adulterer and the adulteress shall surely be put to death.

Again in Deuteronomy 22:22, it is stated:

> If a man be found lying with a woman married to an husband, then they shall both of them die, both the man that lay with the woman, and the woman: so shalt thou put away evil from Israel.

It seems to me that some moral campaigners take a most selective view of which passages of scripture they wish to apply to the criminal law of this State. There is no mention of lesbianism in the Old Testament but St Paul, writing in Romans 1:26, condemns women who lust after one another and give themselves up to vile passions. The Christian church adopted the Jewish sex codes and formalized them into the ecclesiastical laws that governed medieval Europe and later provided the basis for the common law of England. The *Koran* specifically condemns homosexual acts and in the Ancient Moslem religious code sodomy and adultery are both serious offences punishable by death. In Pakistan, adultery is a criminal offence and, although some forms of homosexual behaviour are permitted, sodomy is punishable with severity.

In September last year in Pakistan a Karachi judge found a couple guilty of sexual relations out of wedlock. The girl was sentenced to 100 lashes and the man involved to 100 lashes and stoning to death. At the moment both Pakistan's Supreme Court and the highest Islamic Court—the Federal Shariat Court—are considering whether stoning is appropriate in law or under Islamic justice. In Morocco, the criminal code in sections 489 and 490 includes prohibitions against both homosexuality and extra-marital heterosexual intercourse. Although adultery in Morocco is punishable by a minimum of one year's imprisonment, a complaint has to be lodged before a prosecution can be brought.

As a Christian, I accept the traditional teaching that anal intercourse, whether with a man or a woman, is morally wrong. However, to concede that and to state that such conduct should attract criminal sanctions in all circumstances are separate questions. Certainly, those of immature years need protection and criminal sanctions should attach where an assault occurs or where public decency is seriously offended. However, I am unable to appreciate why consenting homosexual relations between adults in private should attract the full weight of the criminal law and a lengthy gaol sentence. My strongly held view is that consenting adult sexual behaviour in private is a question for the individual conscience and is not a matter for the criminal law

The Hon. R. D. Dyer]

of this State. A similar view was put by the representatives of the major Christian denominations in England in their evidence to the Wolfenden committee. The then Archbishop of Canterbury put this point of view most forcibly in a debate in the House of Lords on 12th May, 1965.

In Australia we do not live in a theocratic state. We live in a pluralistic society containing many racial groups, many cultures and many religions. Certainly, Christianity is the dominant religion and our laws to a large extent reflect Christian values and principles. That is not to say, though, that matters of private morality should be the subject of the criminal laws. It has always seemed to me to be monumentally inconsistent, not to say hypocritical, to maintain that it is legitimate to stigmatize homosexual conduct with a criminal penalty on the basis that the State should act in support of the moral way and to ignore this principle in cases of other serious infractions of morality, such as adultery. After all, adultery is prohibited and condemned by the seventh commandment, thou shalt not commit adultery, and thus occupies a prominent place in Christian teaching.

As I indicated earlier, adultery is a criminal offence in some Moslem countries and in some States of the United States of Amercia, so there is no lack of precedent for legislating against adultery. Clearly, the reason why adultery has not been made a criminal offence in Australia, is, first, that public opinion would not support such a move and, second, that such a law would be unenforceable. Transposing these two factors to homosexual conduct by consenting adults in private, what is the position? Dealing with public opinion first, Dr Ernest Chaples, Senior Lecturer in Government at the University of Sydney wrote to all members of this Parliament late last year. Dr Chaples is a highly respected and very credible authority on polling methods. He has asked different questions regarding homosexual law reform on a number of occasions and states that about two-thirds of Sydney voters approve of full legal equality for homosexuals, favour repeal of anti-homosexual laws and disapprove of the police having to enforce anti-homosexual laws. Between 20 per cent and 25 per cent of the public approve of anti-homosexual laws to some degree or other. As to enforceability, commonsense alone would tell honourable members that to secure a conviction against consenting homosexuals who commit an offence in private is a very remote possibility. In my view, the criminal law should relate to areas of enforceability only and if the position is otherwise the law and its capacity to be enforced are brought into contempt and disrepute.

Before I consider the provisions of the Hon. B. J. Unsworth's bill I wish to state that, although I agree with Reverend the Hon. F. J. Nile in his opposition to homosexual conduct on moral grounds, I deprecate the sensationalist tactics he uses to publicize his case. It is always possible to use bizarre material to heighten emotions and deflect people from a rational and considered view of a social problem. The sort of outlandish gear and practices depicted in some of the material the honourable member distributes are no more typical of the homosexual community than equally bizarre practices are of the heterosexual community. The plain fact is that there are many homosexuals living quiet, and in all other respects, law-abiding lives who do not indulge in the kinky manifestations so freely distributed by Reverend the Hon. F. J. Nile to other members in this place by pictorial represenation. I find it impossible to understand why such people should be exposed to the threat of a long term of imprisonment; nor have I ever been able to understand why anyone would wish to send a consenting homosexual to, of all places, a prison. The rationales for imprisonment are commonly stated to be retribution, deterrence and rehabilitation. The one thing that is certain is no homosexual has ever been rehabilitated by being sent to prison where, in the enforced absence of women, homosexual practices thrive.

There is one other aspect of Reverend the Hon. F. J. Nile's campaigning on the issue of homosexuality I find intensely irritating. The honourable member, in the material he distributes to honourable members, quotes Lord Devlin who has expressed the view that, by helping to define the limits of permissible conduct, the law contributes to the discouragement of immoral behaviour. What Reverend the Hon. F. J. Nile fails to disclose when giving this selective quotation from only one legal authority, admittedly an eminent one, is that Lord Devlin himself signed a joint letter to *The Times* on 12th May, 1965, supporting the proposals made by the Wolfenden committee.

I turn now to a consideration of the provisions of the Hon. B. J. Unsworth's bill. He has already outlined some of the provisions of his bill and I shall, therefore, endeavour to expand on the explanations the honourable member has given rather than to traverse the same ground. The bill effects an amendment to section 79 of the principal Act, which at present relates to both the offences of buggery and bestiality, so that the section henceforth will relate to bestiality only. The penalty for this offence remains unchanged at penal servitude for fourteen years. The bill then inserts in the principal Act a new section 79A creating a separate offence of buggery and providing different penalties according to the age of the person upon whom the unlawful act of buggery is committed, but preserving equality of penalty with the Crimes (Sexual Assault) Amendment Act, 1981. The penalty is fixed at penal servitude for fourteen years if the other person is under the age of ten years; ten years' penal servitude if the other person is of or above the age of ten years and under the age of eighteen years, and seven years' penal servitude if the other person is of or above the age of eighteen years. The last-mentioned penalty will, of course, only relate to situations where the sexual activity involved is non-consensual and in the nature of an assault. In the case of persons under eighteen years there will be no legal capacity to consent to homosexual relations. I believe that it is generally acceptable to honourable members and to the public that there should be graduated penalties according to the age of the victim. Quite obviously an assault increases in seriousness as the age of the child or young person becomes lower and this should be reflected in the penalty imposed following a conviction.

Next, the bill deletes the existing section 80 of the Crimes Act dealing with an attempt to commit buggery or an assault with intent to commit the offence and which carries a penalty of five years' penal servitude and replaces it with a new section 80 setting graduated penalties according to the age of the victim of the attempt. In the case of a victim under ten years of age the penalty is set at penal servitude for five years, being the existing maximum penalty; for persons above ten years and under eighteen years penal servitude for four years; and for persons over eighteen years penal servitude for three years.

The Hon. B. J. Unsworth mentioned briefly that it is proposed to delete section 81 on the basis that indecent assault on a male person can be dealt with adequately under section 61E of the Crimes Act. This provision was inserted in the principal Act by the Crimes (Sexual Assault) Amendment Act 1981. Section 61E provides that any person who assaults another person and, at the time of, or immediately before or after the assault, commits an act of indecency upon or in the presence of the other person shall be liable to imprisonment for four years or, if the other person is under the age of 16 years, to penal servitude for six years. The section provides further that any person who commits an act of indecency, that is an act of indecency not accompanied by an assault, 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 two years. Honourable members will appreciate that, having regard to the fact that section 81 of the Crimes Act is a less comprehensive provision than

section 61E, the better course would appear to be to delete section 81 as proposed in the bill.

The Hon. B. J. Unsworth has given a complete explanation of proposed section 81A, which deals with outrages on decency, and the proposed deletion from the Act of section 81B dealing with soliciting a male person in a public place. I shall not add to what the honourable member has said, other than to say that I agree with his comments. The pivotal section of the bill is proposed new section 81BA, which sets out the circumstances in which consenting homosexual behaviour in private is to be decriminalized. There are three aspects of this provision upon which I wish to comment. First, there is the privacy aspect of the provision. It is proposed in subsection (1) of the new section that the offences of buggery or attempted buggery be deemed not to have been committed unless it is established by the prosecution that, *inter alia,* the act constituting the alleged offence was committed otherwise than in private or involved participation by more than two persons. The proposal in new subsection (4) is that an act is committed otherwise than in private if, *inter alia,* it is committed in the presence of any person other than the participants in the act. This provision might well be described as the anti-orgy provision and as such will not be acceptable to the more radical and assertive sections of the gay community.

The Hon. B. J. Unsworth and I feel strongly that to fail to limit homosexual behaviour to this extent would be to fail to meet the expectations of the general community that decriminalization should occur only on a restricted basis. The mover and I are not seeking to promote a latter-day Sodom here in Sydney. We seek to remove only the threat of criminal prosecution and a gaol sentence from homosexuals who are adult, who consent and who have a one-to-one relationship at any given time. The second aspect of proposed new section 81BA to which I wish to draw attention is the provision in subsection (4) that an act is committed otherwise than in private if it is committed in a lavatory to which the public have or are permitted to have access, whether on payment of money or otherwise. In recent days it has been put to me that this provision will ensure that police rampage round public lavatories. My response to this is that this is preferable to homosexuals rampaging round in public lavatories. A public lavatory cannot in my view be regarded in any sense as being a private place and it is intolerable to suggest that acts of buggery should be permitted to occur there. The final aspect of proposed new section 81BA to which I wish to refer is the provision in subsection (3) that a person with or upon whom an offence of buggery or attempted buggery was committed shall be treated as being of or above the age of 18 years if it is made to appear, or, in other words, proved to the court or jury before which the charge is brought that the other person was of or above the age of 16 years; the other person consented to the act constituting the alleged offence; and the person charged with the offence had, at the time of the commission of the alleged offence, reasonable cause to believe, and did in fact believe, that the other person was of or above the age of 18 years.

I understand that this provision is causing concern to some honourable members. May I say that it is not an attempt to allow persons between the ages of 16 and 18 years to engage in homosexual activity. It merely follows the existing law regarding heterosexual intercourse between a male and a female under the age of consent. The provision is designed to protect a defendant to a charge who was led to believe on reasonable grounds, and did in fact believe, that his partner was 18 years of age or above. I believe, along with the Hon. B. J. Unsworth, that this bill will effect a genuine reform and will remedy an existing injustice, namely, the threat of criminal prosecution and imprisonment, and the accompanying threat of blackmail, currently faced by many homosexuals who do not flaunt their activities but who live quiet and law-abiding lives in all aspects other than the homosexual activity. I do not favour

proselytizing activities by the homosexual community, or the promotion of homosexuality as a legitimate alternative lifestyle. I oppose the concept of homosexual marriages, adoption of children by homosexuals or any form of serious public indecency. The bill does not seek to permit or encourage any such development or activity. It is a moderate and just reform. I ask honourable members to support the bill.

The Hon. W. J. HOLT [5.36]: I support the bill. Homosexuals form, have always formed, and will form, a sizeable minority of our population. This State's history reveals that the crime of buggery was put into the statute books in 1883, and it then attracted a maximum penalty of penal servitude for life with a minimum penalty of five years—a heavy penalty at that time, particularly as the minimum penalty was five years. The only significant amendment to this law in the past ninety-nine years—and it is interesting to note just how close to the century we are—was in 1924 when Sir Thomas Bavin reduced the maximum penalty from life imprisonment to fourteen years and revoked the minimum penalty completely.

With sanctions such as these, it is little wonder that during the past century homosexuals have been subjected to harassment, humiliation, blackmail threats, extortion and various other forms of mental and physical suffering in a way that has not happened to heterosexuals. This is because of what in the ultimate can be considered only as sexual behaviour differing from that of the majority of the population. Without going into the history or the reasons for this persecution, the fact is that reform is long overdue in this State. It is ridiculous that New South Wales—in many ways a leader in social reform—should lag behind Victoria, South Australia, Great Britain and many other countries in homosexual reform. If that is not sufficient justification for some reform of this State's antiquated Victorian laws, I remind honourable members that in 1976 homosexual reform was introduced by the Liberal federal Attorney-General, then the Hon. R. J. Ellicott, in the Australian Capital Territory, an area that is geographically surrounded by New South Wales.

I shall deal now with the bill. I have said that I believe in reform in this area. The question then arises whether I should support this bill. Like most other members of Parliament, I was lobbied by members of the gay community, who said that the bill is unacceptable and—to use the expression used more than once to me—that it did not go far enough. During my movements about the House I have been told also that a bill that does go far enough will not be passed by the House—and that is my firm belief. Honourable members would have observed that neither of the two bills that were presented in another place, being the one that did go far enough and the one that did not go far enough—again to use the words that were used by others—was passed. Indeed, it is ironic that it has fallen to the lot of this House, which is sometimes maligned by people in the community and indeed sometimes in another place, to show the way, to lead others out of the wilderness and out of Victorian times into this century. I believe in some reform of our homosexual laws. If the bill is all that can be achieved at present—and I am firmly of the view that it is—I shall support it rather than face the distinct possibility of having no reform in the foreseeable future, which could be twenty or thirty years.

Finally, I am fortified in my support of the bill by the experience in the Australian Capital Territory. The relevant ordinance that introduced homosexual reform is, in essence, the same as the major provision in the bill, in that it decriminalizes homosexual acts in private between consenting persons over the age of 18 years. I am informed that the Australian Capital Territory ordinance has worked successfully in removing homosexuality as a divisive issue in that territory. I trust that if passed the bill will have a similar result in New South Wales.

The Hon. DEIRDRE GRUSOVIN [5.44]: I support the bill. In so doing I wish to congratulate my colleague the Hon. B. J. Unsworth on his efforts to have this House take the initiative in this matter. Recent lengthy debates in another place have failed to end the anomalies existing in the Crimes Act of 1900. Those anomalies maintain a maximum penalty of 14 years' gaol for consenting male homosexual acts in contrast with the maximum penalty of 7 years' gaol for heterosexual and homosexual rape. I quote the following paragraph from a letter that I received in recent months from a homosexual:

> Compare the maximum term of fourteen years' gaol for consenting male homosexuals to the maximum term of seven years' gaol for rape. Am I twice the criminal a rapist is?

I strongly support the bill, which could be called the Unsworth bill. It seeks to decriminalize homosexual behaviour between consenting adults in private. Most important, it seeks to bring about equality of penalty, as far as is practicable, in respect of certain sexual offences. In setting 18 as the minimum age of consent, the bill provides protection for our young people in their impressionable years. It does not seek to confer gender neutrality in regard to sexual practices. The present law is objectionable in principle and in practice. Argument for the repeal of these laws is based on evidence that the present law promotes other criminal activity that no reputable person would support. In practice, present laws promote blackmail against homosexuals; they operate to protect people who commit acts of violence or robbery against homosexuals; and in some cases they have contributed to the murder of homosexual men.

One must face the fact that homosexuals are the ready prey of criminals because their assailants know that in many cases the unfortunate victim will be loath to complain to the authorities. All honourable members know that there has been plenty of evidence in the Australian community of the so-called sport of poofter bashing. One should remember that it was a violent crime that precipitated the introduction of reforming legislation in the State of South Australia. In early 1980 the body of Dr Duncan, a known homosexual, was found in the Torrens River. Members of the legal profession have called for reform. I refer the House to a letter that I, and probably other honourable members, have received from a reputable firm of attorneys, Messrs Marsden, Smith and Associates, who state:

> We, as solicitors, have too often appeared in courts for people whose lives have been wrecked by the irresponsible application of the law against homosexuals in this State.
>
> We have seen this law used unfairly and irresponsibly and we have seen it ruin many people's lives. We, as lawyers in this community, believe all people should be equal before the law, no matter what their colour, creed, sex or sexuality.

The letter was signed by seven members of the firm. It is also worthy of note that the Wolfenden report showed that thirty-two of the seventy-one cases of blackmail recorded by the police in England and Wales between 1950 and 1953 were involved with homosexual activities. Do we really believe that the present severity of the law in New South Wales has stamped out homosexual practices, or reduced them? There is no evidence to suggest that homosexual practices are more prevalent in Victoria or the Australian Capital Territory, where under Liberal governments criminal penalties have been removed.

One important consideration is that the bill acknowledges that the homosexual act is an unnatural act, contrary to the law of God and the moral sense of Christian

people. It does not seek to present homosexuality as an attractive alternative to heterosexuality; neither does it hold that it is appropriate that adults should be gaoled or otherwise punished by the law for private consensual sexual behaviour. The proposed legislation seeks to ensure that people who are homosexual will be entitled to fairness and justice from our society. I should like to think our society has progressed a long way from the primitive eye-for-an-eye, tooth-for-a-tooth concept of justice. Most people know that a distinction has been recognized between crime and sin and between the criminal law and moral codes. I ask honourable members to note the following passage from the Wolfenden report as it makes a clear distinction between crime and sin:

> There remains one additional counter-argument which we believe to be decisive, namely, the importance which society and the law ought to give to individual freedom of choice and action in matters of private morality. Unless a deliberate attempt is to be made by society, acting through the agency of the law, to equate the sphere of crime with that of sin, there must remain a realm of private morality and immorality which is, in brief and crude terms, not the law's business. To say this, is not to condone or encourage private immorality. On the contrary, to emphasize the personal and private nature of moral or immoral conduct is to emphasize the personal and private responsibility of the individual for his own actions, and that is a responsibility which a mature agent can properly be expected to carry for himself without the threat of punishment from the law.

In 1979 a publication by the Catholic Social Welfare Commission of the English Hierarchy *An Introduction to the Pastoral Care of Homosexual People* called for a sympathetic understanding of homosexuality and an end to injustices against individual homosexual persons. Present pastoral advice is that homosexual persons must certainly be treated with understanding and sustained in the hope of overcoming their personal difficulties and their inability to fit into society. That statement was made in a 1975 declaration. In the past several years numerous Catholic groups and individuals have spoken out in positive support of the civil rights of homosexual persons in the church and in society. They include cardinals and bishops who, though carefully distinguishing the moral issue of homosexuality from the other moral issues of social injustice, civil rights and discrimination, have attempted to define and protect the rights of gay people. I shall read to the House what was said by Cardinal Deardon, Archbishop of Detroit, in 1974:

> Arbitrary discrimination against them is unwarranted. In justice, we feel an obligation to work to safeguard the rights of others in our society. We should be concerned, too, about respect for the proper rights of the homosexual.

Bishop Carroll T. Dozier of Memphis, Tennessee, said in January 1978:

> It's a human rights problem and it's one that the community at large must face. All that the gay community, as I understand it, is asking are the things we recognize as people—that they have a personality, a humanhood that is necessary to be recognized in the community, and I see nothing wrong in their position. They have a right to the dignity of a human person. . . . As I understand it the thrust of the gay problem is on the rights business. It is not whether they are sitting right or wrong. It is whether they are being given their rights or being wronged . . . the person who is gay has the right to that dignity of the community in which he or she lives.

Though not condoning homosexuality, the Sydney diocese of the Anglican church admitted that there are problems in the existing legislation. The present law provides that all male homosexual behaviour is criminal and punishable by up to fourteen years'

imprisonment. To ask someone to engage in homosexual behaviour, even in private, is punishable by a maximum of two years' imprisonment. Consenting male homosexual acts are considered to be twice as serious as non-consenting acts and rape. Can that state of affairs be allowed to continue? If an objective test is to be applied in this State and in other places where such sexual acts as adultery, fornication, masturbation and female homosexuality are regarded as immoral by some members of the community, and perhaps by members of this House, though not subject to any criminal sanction either now or in the recent past, in this day and age why is male homosexuality still singled out for the oppression of the law?

I shall deal now with a letter that was referred to in the course of the debate on homosexual law reform. The letter was from a member of this House, Reverend the Hon. F. J. Nile. In his letter the honourable member quoted from the Bible that sodomy, or buggery, is condemned by the church because it is clearly condemned in the Holy Bible and by other religions. I agree with that; but what of the other crimes that are condemned in the Holy Bible, such as fornication and adultery? It seems unfair that homosexuality has been singled out for oppression. Logically, there is an undeniable case for the reform of the law in New South Wales.

It has been claimed that the proposed changes to the law are not in accordance with the views of the community. Information supplied by Dr E. A. Chaples of the University of Sydney and referred to by my colleague the Hon. R. D. Dyer, taken from surveys conducted in this State, show that is not the case. Dr Chaples found that about two-thirds of Sydney voters approved of full legal equality for homosexuals, favoured repeal of anti-homosexual laws and disapproved of the police having to enforce those laws. Between 20 per cent and 25 per cent of the public approved of anti-homosexual laws to some degree. The portrait of those approving of such laws is remarkably consistent. According to Dr Chaples, those who approve of anti-homosexual laws are most likely to be in the older age group, over 50, are least likely to have much formal education, are most likely to work in blue collar jobs or to be married to a blue collar worker, and are more likely to be male than female. Dr Chaples summarized that the best and most detailed public opinion work shows that a large majority of the public does not support the present New South Wales laws or the enforcement of those laws concerning male homosexuals.

Some sections of society have expressed concern about the possible harmful effects of reform of this part of the law. No evidence has been produced to support those fears, not even in South Australia, which carried out more radical reform in 1975, or in the conservative State of Victoria, which repealed its laws relating to homosexual behaviour in 1980. In this debate some dire predictions have been made: that if homosexual behaviour is decriminalized it will lead to confusion about normal sexuality. I seriously doubt that. Another forecast was that today's decriminalized deviations will be foisted upon the public as tomorrow's desirable practices. There are swift and far-reaching consequences if we ignore the declaratory standard-setting function of the criminal law. It becomes more horrendous when one looks at another paper with which honourable members have been bombarded. The document says that there are reasons why there should be no change to the criminal law regarding sodomy. Under the heading "Schools" it says:

> . . . because to do so would permit the sale of "Young, Gay and Proud" in schools and the promotion of homosexual practice, with all its hazards, as a normal sexual option.

That is disgusting, untruthful and harmful, and has been allowed to intrude into this debate. I have been most perturbed about the half-truths that have been put before honourable members in an attempt to frighten them. They avoid the substance of the

matter. Honourable members have been told that if these things happen, New South Wales will have a terrible time. That ignores the fact that in the past twenty years half of the American States have reformed similar laws. Canada, England, Wales, Scotland and South Africa have done likewise. As long ago as 170 years, France, Italy, Spain, Portugal, Belgium and The Netherlands established equality under the law for male homosexuals. Since then virtually the whole of western Europe has repealed laws relating to homosexuals. Many other parts of the world have never had laws of that type.

The bill before the House reflects a more enlightened approach to homosexuals in the community. I do not believe that it will endanger community standards. Honourable members have spoken about homosexuals as if they were objects. They are worthwhile human beings, many of them creative people with much to give to society. Honourable members in this House should take to heart the words of the Catholic Bishop Walter F. Sullivan of Richmond who in 1977 said:

> . . . the homosexual has a right to respect, friendship and justice. May each of us reflect on our own attitudes and feelings as we reach out in loving care and service to all people, no matter what their sexual orientation might be.

As persons possessed of God-given intelligence, let us deal with the legislation responsibly. I support the bill.

The Hon. F. M. MACDIARMID [5.59]: In opposing the legislation I am rather nonplussed at the motives of the Hon. B. J. Unsworth in introducing it. After all, he has admitted that he is opposed to the act of sodomy. Perhaps his motives will emerge when he replies to the debate. Perhaps members of the gay community in New South Wales have joined the Labor Party and that is the real reason why the secretary of the Labor Council of New South Wales has brought the bill forward. I am surprised that practising Christians who normally follow the teachings of their church have not done so on this occasion.

I congratulate Reverend the Hon. F. J. Nile upon his contribution to this debate. I thank goodness for the Fred Niles of the world and others who are trying to maintain standards in the community. In recent years, and particularly in this State, moral standards have deteriorated. That blot on society should be removed; the trend should be arrested. The Hon. R. D. Dyer heavily criticized Reverend the Hon. F. J. Nile for some of his statements. I repeat: I congratulate Reverend the Hon. F. J. Nile on a very fine speech.

I have a simple and basic philosophy on human relations, that what happens between two persons behind closed doors—whether between man and woman, man and man or woman and woman—is their business, provided their behaviour is not offensive to other persons. However, I am opposed fundamentally to the act of sodomy on moral and health grounds. I object to the bill, for it would leave many matters open to question, particularly the provision that relates to buggery or sodomy in private. How could such a provision be defined? Obviously the courts would have great difficulty in defining it. The provisions of the legislation should be better defined. Is it claimed that the behaviour of two male persons in a private motor car is behaviour in private? Or would the definition be more restrictive? Would it relate to behaviour solely within the privacy of the four walls? I am sure that if this legislation, or any similar legislation, were enacted, grave difficulty would be encountered in defining the word private.

I concede that acts of sodomy have been occurring since mankind first discovered the sexual urge. It occurred in the British and German armies, in public schools and all sorts of places. I was taught not to bring myself down to inferior levels of behaviour. The Hon. Deirdre Grusovin spoke of South Africa.

The Hon. Deirdre Grusovin: I did not mention South Africa.

The Hon. F. M. MACDIARMID: If she did not, she certainly mentioned a number of countries including Great Britain and Europe, that have legislation of the type that has been presented here. Why should Australians enact similar legislation to that applying elsewhere? Australians are noted for their outdoor image. Should they follow the lead of other countries? Surely we are capable of setting our own standards. In recent times in Australia homosexual acts, away from army barracks, have been spoken of with approval in the armed forces.

The Hon. Deirdre Grusovin: I suppose the honourable member will claim they do not occur in the navy.

The Hon. F. M. MACDIARMID: That is a matter upon which I cannot comment. I should be surprised if the honourable member knew anything about that matter. The bill would perpetuate a lowering of standards in Australia. Honourable members recall what happened, and continued to happen, in New South Wales, particularly in this great city of ours, after the Wran Government repealed the Summary Offences Act. Prostitution in or about Kings Cross became rife. Soliciting in the streets occurs 24 hours a day. I was propositioned at 10 o'clock one Saturday morning outside a Woolworths' store. Honourable members might laugh. As I am a man of the world I was not offended, but many persons would be, in those circumstances.

The Hon. B. J. Unsworth has queried whether it is offensive for one man to proposition another. I suggest that is far more offensive than being propositioned by a woman. It is repugnant to me and many other men. What about the young boy who is approached by the school bully. I am told, and I do not doubt, that acts of sodomy take place in schools. Certainly that was so in the old days. I have heard of school bullies forcing younger boys in the school to commit sodomy. Of course, a bully could be charged with an offence under the legislation; but as he is usually a standover type, young persons tend to bow to the bullying. Under this legislation if a young person submitted, no offence would be created.

I understand that male prostitution is rife in many parts of the world, notably in San Francisco and Hamburg, as well as other cities. Certainly the incidence of it is growing in Sydney. This bill would encourage more male prostitution in New South Wales, and that factor alone condemns the bill. I ask the mover of the motion, the Hon. B. J. Unsworth, what pressure from the public prompted the introduction of this legislation. I am not aware of any call for it. Possibly the gay liberation groups are responsible.

I question some of the statements of the Hon. W. J. Holt, who spoke in support of the bill. He said a sizeable minority favour the legislation. I dispute that claim. I am sure statistics would support my contention that there is no pressure from the average, decent-living citizen for legislation of this kind. I hope that honourable members who share my views will have the courage to vote against the bill. I remind honourable members of an incident that occurred outside the precincts of this great Parliament when, during a gay liberation demonstration, a number of males were kissing one another. The Hon. B. J. Unsworth said that kissing between males is not repugnant to society. I saw the incident outside this Parliament, and it was

repugnant to me; it is something I would not like to see happening in public. I think it proper to remind honourable members of the views of some church leaders on this issue. The Catholic Archbishop of Sydney, Cardinal Sir James Freeman, has said:

> Homosexual acts whether above or below the age of consent are morally wrong and contrary to natural law . . . You cannot equate the homosexual life-style with that of the married relationship in which a man and a woman are charged with the responsibility of procreation and rearing of children.

Sir Marcus Loane has issued this statement:

> 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.

Sir Marcus was referring here to the bill introduced in the other place by the honourable member for Illawarra. He went on:

> But it goes far beyond that. If it is passed, it will give those who engage in homosexual practice a legal recognition and social status which has never before been thought desirable. Homosexual conduct is actively promoted in 'gay' literature. It is revolting, degrading, subversive of family life and destructive of society. For these reasons the Bill ought to be rejected.

I submit that the bill introduced by the Hon. B. J. Unsworth should be rejected also. The Hon B. J. Unsworth, Reverend the Hon. F. J. Nile, and the Hon. R. D. Dyer quoted from the good book, the Bible. The Old Testament, the first part of the Bible, condemns homosexual acts unequivocally. The Hon. R. D. Dyer read this passage to honourable members:

> A man who lies with a male as with a woman, both of them have committed an abomination. They shall be put to death.

It surprises me that honourable members who have high moral standards and a high regard for the church support the bill, which is against moral and every other type of teaching. The bill is the thin edge of the wedge. If the bill becomes law, one might ask: What next? The Hon. P. J. Baldwin said he does not like the bill because it does not go far enough, but he will support it because he hopes that in the other place it will be amended. That is the thin edge of the wedge from his point of view. If this bill or one of a similar kind is passed, will there be marriages between man and man? Already submissions have been made that male couples should be allowed to adopt children; but, thank goodness, if marriages between men take place they will not be able to procreate children. Already community standards are breaking down. One sees evidence of that when one attends a 1-day international match at the Sydney Cricket Ground.

The Hon. B. J. Unsworth: They are bowling underarm.

The Hon. F. M. MACDIARMID: This is an underarm ball that the honourable member has bowled. One sees women baring their breasts, men urinating on the hill, men urinating in cans and throwing the cans at the scoreboard and at each other. Has society reached the stage when, if the bill becomes law, we will see sodomy on the hill? One wonders where the Wran Government is leading the people of New South Wales. The State is suffering a shortage of electricity and the Treasury is

running out of funds, yet honourable members spend hours debating changes in the law that are not wanted by the majority of the community. As politicians we could use our time to much better advantage.

The Hon. FRANCA ARENA [6.13]: The Legislative Council is being presented with the opportunity to play its part in correcting a great historic injustice. That injustice is the criminalization of male homosexuality. The laws of this State derive from a law adopted in England in 1885. Their effect has been to put male homosexuals outside the law and to deny them the protection of the law. In creating a category of sexual outlaws the Parliament has contributed to the discrimination against all homosexuals that is still rampant today. Homosexuals are subject to possible loss of employment, family, and friends on disclosure of their sexual orientation. They are subjected to abuse, ridicule and physical violence by ordinary citizens as well as by enforcers of the law; and even some of their supposed friends cannot avoid belittling their concerns or making the odd poofter joke.

Gay people have begun to work to change this. Slowly they have started to build their own communities and press for social reform. I salute the efforts of all people to be free to live their lives as they wish, so long as their freedom does not impinge on the rights of others. As history has taught us, people will be free only if they work for their emancipation. As a democrat I know that until all of us are free, none of us is free. I hope that all of us, including the honourable members of this House, strongly oppose discrimination and support the democratic right and the civil liberties of any person, regardless of sex, race, ethnic background, or sexual orientation.

The case for homosexual law reform is a strong one. It is based first on the absurdity of the social proscription of activity that is consenting, of no harm to the participants or society, and which we may assume is agreeable to the persons concerned. Male homosexuality has been called a victimless crime. How appropriate that description is. And how inappropriate is the law in such a situation. Some may argue that it is the function of the law to play the role of schoolteacher or to enforce certain moral standards. I do not agree. Let each individual in her or his own conscience decide what moral behaviour is appropriate to him or to her; let society intervene only where antisocial activity occurs. For too long some persons have used the fact that we need to make concessions and rules to determine how we live with our neighbours, to impose their own restrictive attitudes on others. The task demanded of us is not to moralize. It is to be just. That is true morality. We should learn to understand and not to judge.

The sections of the Crimes Act that this bill has been designed to reform have generally been recognized as repressive and medieval. They are inappropriate for the statute books of any part of this free nation, or of the largest and most developed State of Australia, New South Wales, whose capital is the cosmopolitan and diverse city of Sydney. The public does not accept these laws and would not support their strict enforcement. Were the police to try to enforce these laws strictly, perhaps 10 per cent of the adult male population of this State could be open to harassment. The number of prosecutions of men under these laws is minute compared with the number of men who break, and will continue to break, these laws. However, even one prosecution under an unjust law is unacceptable. In the past month honourable members have read in the newspapers that a number of people in Kings Cross are being charged under section 81A of the Act, 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 commission by any male person of, any act of indecency with another male person shall be liable to imprisonment for two years.

The persons concerned are transsexuals, in this case people who have changed their sex from male to female. The defence argues that the accused are not male persons. Doctors, psychologists, and sociologists are being called to help in the defence. The court may be presented with the dilemma of having to decide the sex of the defendants. Is this the role of the New South Wales judiciary? It is an indictment of the law that people are forced to go through this charade. The law is as absurd as it is repressive. Perhaps the opponents of reform would like an example to be made of a few. I declare without fear of contradiction that these laws have not stopped male homosexual practices, nor will they. In his speech to the British House of Commons on 5th July, 1966, on this issue, Mr Leo Abse said:

> To send homosexuals to overcrowded, hermetically-sealed male prisons is as therapeutically useless as incarcerating a sex maniac in a harem.

The desperate desire of opponents of reform to retain the present laws can be seen to be only an irrational defence of the *status quo*. Prejudice and emotion should not have a place in guiding our actions as legislators. The people of this State expect, and deserve, open minds from their representatives and rational decisions from their legislators. For these reasons I commend the movement for homosexual law reform and urge serious consideration of the Crimes (Homosexual Behaviour) Amendment Bill proposed by the Hon. B. J. Unsworth.

I intend to support the bill, even though I have great misgivings about proposed section 81BA (1) (c), and section 81BA (4) (a). I am concerned that those proposed sections will discriminate in the application of the law to no necessary purpose. They seek to specify some circumstances in which the consenting homosexual acts between adult males would not be illegal. What is not prohibited by law is legal. It is better therefore to define the circumstances in which society does not want sexual activity to take place rather than to list the acceptable circumstances. At present there are laws that cover public sex. These are contained in section 5 of the Offences in Public Places Act and section 8 of the Crimes Act. The Offences in Public Places Act was a progressive measure introduced by the Labor Government. Section 4 (1) of the Act defines a public place in these terms:

> (a) a place (whether or not covered by water); or
>
> (b) a part of premises,
>
> that is open to the public, or is used by the public, whether or not on payment of money or other considerations, whether or not the place or part is ordinarily so open or used, and whether or not the public to whom it is open consists only of a limited class of persons, but does not include a school.

Section 5 of the Act outlaws offences in public places, and provides:

> A person shall not, without reasonable excuse, in, near, or within view or hearing from a public place or school behave in such a manner as would be likely to cause reasonable persons justifiably in all the circumstances to be seriously alarmed or seriously affronted.

The Offences in Public Places Act covers all acts, including sexual acts, whether committed by female or male heterosexuals or homosexuals, in a public place. It does not discriminate on the basis of sex or sexual orientation. It embodies the principle of equality before the law. The Act has been used to prosecute offenders and is capable of being so used. Rather than being a weak Act, as has been suggested by the Opposition, it has been used disgracefully to prosecute successfully a man for dancing and kissing another man in a gay discotheque in Sydney. Quite clearly acts of public sex

are also within its ambit. Surely with this aspect of sexual law reform the aim should be not to ascribe any negative essence to sexual acts themselves, but to be concerned with the effect on others. The present Offences in Public Places Act deals with this adequately.

The Hon. R. B. Rowland Smith: Does it really?

The Hon. FRANCA ARENA: It does. Also, I am concerned about that section which refers to the number of persons participating or being present at the act in private. Again, I point out that such references are discriminatory. Since the crimes legislated for by proposed section 81A of the bill specifically refer to male homosexuality, we would compound the discrimination against male homosexuals by putting in these clauses. Concern with the privacy provisions is prompted by the experience in England since law reform in 1967. Mr Roy Walmsley of the British Home Office research unit, writing in the *Criminal Law Review* of 1978, reported an increase in police prosecutions of male homosexuals since the passing of the English Sexual Offences Act. He found that since the enactment of that legislation, which included provisions legalizing homosexual behaviour between consenting adults in private, the number of offences of indecency between males, recorded as known to the police, doubled and the number of persons prosecuted for that offence trebled. Most of the additional offences known and prosecuted involved indecency between two males aged 21 or more. Walmsley argued that the most likely explanation for this was that "the increases in recorded incidence and in the prosecution rate since the 1967 Act are due to the Act itself". He went on to say:

> The 1967 Act brought to an end a period, lasting at least since the publication of the Wolfenden Report some ten years earlier, when the law prohibiting all male homosexual acts had been called into question. The way in which the 1967 Act resolved this uncertainty was to distinguish homosexual acts in private from those committed in public places. 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.

I am concerned that homosexual law reform in New South Wales should not lead to the criminalization of more gay men. The sections that I have mentioned are discriminatory, unnecessary and open to use by police to harass male homosexuals. It is important that any homosexual law reform in our State be a genuine step in the right direction. I consider that the bill is inadequate, but I am willing to vote for it on the ground that justice delayed is justice denied. I sincerely hope that this piece of legislation is the first step in making the law more just.

[*The President left the chair at* 6.29 *p.m. The House resumed at* 8.5 *p.m.*]

The Hon. N. M. ORR [8.5]: I oppose this legislation. I do not do that lightly. I oppose it with every fibre in my being. This legislation could be a watershed in the social life of this community. I do not believe anyone has really looked in depth at the subject of homosexuality. My reaction to the debate and the speeches of members on both sides of the Chamber is that no one has really done his homework. No one has really got close to homosexuals, looked at them, observed their organizations, noted their objects, discovered what makes homosexuals tick, what makes them work, their motivation and the effects they are having by what they are doing in society. I propose to say some fairly harsh things.

Some of the earlier speakers qualified their remarks. I should like to qualify mine in this way: my faith is such that I believe, through the fatherhood of God, in the brotherhood and sisterhood of all people, we should do what my church has taught—we should love our neighbour. Today the word love is not properly understood. What we think of today as love is very different from the meaning of the word when Christ used it. The translation of the original Greek word *agapae* meant having goodwill and understanding. So where we cannot have love in the ordinary English acceptance of the word, we might at least have goodwill and understanding. I hope I have goodwill towards, and understanding of, this group of people within our community. It is from this platform that I shall make my remarks.

Much lobbying has been done by this group of people among all members of the general community. It has been suggested by some of the contributors to this debate, and by the people themselves, that homosexuals have been unjustly treated and discriminated against. But not one person in this debate tonight has come forward with evidence to show that any admitted homosexual has been discriminated against either by being gaoled unjustly or through being prosecuted in any way. Members would have seen homosexuals in large numbers at the front of Parliament. One can go to any newspaper stand and pick up their literature. That literature was available in schools until the general public realized what it was and had it withdrawn. Why are we talking about discrimination? I challenge anyone to come forward and show any homosexual has been discriminated against.

Some of the legalistically inclined members of this Chamber have outlined at length what the law has said about this subject. I do not propose to deal with the law. Neither do I propose to take the line adopted by the Reverend the Hon. F. J. Nile concerning whether it is sinful or not, because that has been well canvassed. I do not give a continental what a homosexual does in so far as his attraction for members of the same sex goes. But we must look at the nature of homosexuals. Some people confuse them with transsexuals. There is a big difference. A transsexual is either a man or a woman who, when he or she has a sex change, becomes a member of the opposite sex. If he was a man, he ends up as a woman; if the transsexual was a woman, she ends up as a man. Members should not confuse those two things. Homosexuals have a happy knack of doing that because they realize that transsexuals get a lot of publicity.

What causes homosexuality? I challenge any honourable member on either side of the House to cite medical authority for the proposition that a person is born a homosexual. It cannot be done, for it is not so. Then, what produces a homosexual? The nearest one can get to a born homosexual is someone born with a relatively weak disposition, is diffident and backward and has weak characteristics. Put two of those people together—people that cannot develop in society and are not aggressive, people that hang in the background and miss out on the things that go on—and often the result is a homosexual relationship. That is the nearest one can get to someone born a homosexual. The rest of them are products of environment, of an overawing mother, a mother who stands over a son who is one of those weak, vacillating types and as a result he will go out into life with an aversion for women. The rest of them are recruits and fellow-travellers.

These are the people who have brainwashed many of those that are working for the liberation of the homosexual movement. I am referring to the fellow-traveller, the person who is producing the literature, running the male brothels and recruiting the kids. These people to whom I refer have done rather a good job and we as a group—as members of Parliament and in the community generally—have not had a look at the movement. In the main, homosexuality is a personal preference and nothing

but that. Anyone who has had any association with homosexuals will know that the persons I mentioned first, who are closer to being born homosexuals than anybody else, keep to themselves. They have never been people who have gone out into the public eye; they are not the sort of people that are found leading demonstrations in front of Parliament House; they are not the sort of people that are found in Oxford Street or in the discos. Those are the recruits, the fellow-travellers that are cashing in on what has become a cult and here we are, swallowing it. It really amazes me.

I pose the question, are the acts that are performed by homosexuals normal? I do not have to ask honourable members. They know the answer. What does one do with any other person in the community that is not normal? They are placed in Gladesville.

The Hon. Deirdre Grusovin: Come off it.

The Hon. N. M. ORR: Come off it, nothing. If a person is not normal and is creating a problem in society, that person is given medical attention. Today there are clinics and there are professors and other people available in Sydney to whom any person with homosexual tendencies can go and be treated. Some of these people are being treated and cured. But the active homosexual does not want that, because he does not want to be cured. He has a preference and he wants the rest of the world to be that way, too. Let us not have ourselves on. Let us get the facts. Let us get down to brass tacks with homosexuals. I shall now read a quotation from a publication by June Benjamin, which many honourable members may have received but not read. She wrote:

> I have been in communication with several leaders in the understanding of homosexuality overseas—and with many who counsel or treat these vulnerable people whose choice of deviancy has firmed into sexual preference. It seems militant and activist radical and reformist gays are politicised, arrogant and peremptory and their pretensions to emotional maturity and to mental omnipotence, should be withstood. Homosexuality is a perversion and has many sexual and non-sexual hazards.

Some of these hazards were mentioned by honourable members who have already spoken. The fact is that in Sydney in the past four years about 70 per cent of syphilis and gonorrhoea, both anal and pharyngeal—which is in the throat—has come from homosexuals. Let honourable members think about that. Any person who exposes himself to that and is well aware of it is not a normal person. I shall quote another authority, David Altmann. In his book *Coming Out in the* 1970's at page 115 he writes, "Most homosexuals do not feel oppressed". He recognizes the type of people that they are. He goes on to say:

> Why change the law for the ambitious goals of radical and reformist and power-hungry gays?

When one thinks about that one asks, why is the term gay chosen? This is one of the psychological things. Homosexuality immediately conjures up in one's mind a dirty condition. But when one hears the word gay, one understands that this group is cleverly and deliberately giving itself a name that suggests a happy family: lovely fellows, gays. Let us look at what they really are. I quote the view of the American Psychological Association referred to in *Time* of 20th February, 1978, which states that:

> . . . homosexuality is a pathological adaptation as opposed to a normal variant.

There honourable members have the point of view expressed by one of the leading associations looking into the matter in the United States of America. That is the sort of thing that many honourable members have not done. We have not read the right authorities. We have looked at the propaganda. We have not looked at the real person that we are trying to help. The psychologists suggest that the law change will not abate the gay's troubles, for his liaisons are short lived, his depressions are frequent, his fears are legion and his bitterness and soul loneliness increase with age. Anyone who has had any contact with homosexuals will know that that is the absolute truth. They are people who age early. They are bitter people and the very fact that they have gone that way indicates, as I said before, that they are abnormal people and that is the end result.

The situation in England has been referred to during the debate. I shall quote from British *Hansard* volume 385 No. 74 for 14th June, 1978, because ten years after the law reform in Britain, Lord Halsbury gave evidence of the growth and the activities of groups exploiting male prostitution with its attendant corruption of youth, debasement of morals and increase of venereal disease. One honourable member who spoke earlier in the debate suggested that after homosexuality was legalized in England the opposite result to that intended ensued. The opinion I quoted was from a leading English authority. Honourable members will know that in the great public schools of England the fagging system was the breeding ground of homosexuality. Honourable members have often read in stories of spy trials and other crime stories that a great many of these people rose to the top in British politics and various authorities through their homosexual affiliations and they were used to sell England down the drain. They sold their own country. Honourable members have heard talk of abnormality. I do not wish to sicken anyone but as this is a serious debate I think we should know the facts. I have here a gay publication in which the writer talks about fisting. I do not know whether members on the Government side were able to see that or not. I shall read what one of the leading gays has written:

> As my admiration for Bryan and his caring outlook has grown, my anxiety for the health of those men seemingly hell-bent on stretching their arseholes——

The Hon. Deirdre Grusovin: That is unnecessary. It has nothing to do with the debate.

The DEPUTY-PRESIDENT (The Hon. C. Healey): Order!

The Hon. N. M. ORR: He continued:

> ——and risking their lives (the American death-rate after a perforated bowel being 10 per cent) has quietened.

Those are the sort of people that homosexuals become. That is the sort of thing they do. In this House we are being asked to give them the green light. I believe that as parliamentarians we have a responsibility to the community. This measure is supposed to be a matter of conscience for each honourable member. We were elected to this House to act, not only on our own consciences but also as representatives of the people who elected us. On this issue I believe we have to be aware of what the majority of the public want—not what we want. As I said before, I do not believe any of us has undertaken sufficient research to understand the basic consequences that can flow from this legislation. Therefore, I believe we have to react to what the community wants. Honourable members know what the community wants.

Several honourable members have quoted statements by Lord Devlin. It is in order for me to refresh the memories of honourable members, for I believe that

some of the statements made by Lord Devlin are relevant to us, as politicians. The remarks made by Lord Devlin should remind honourable members of their responsibilities. Lord Devlin, the famous law lord of the House of Lords and a distinguished judge in England, in his book *The Enforcement of Morals* in the chapter "Morals and the Criminal Law", wrote:

> Society means a community of ideas; without shared ideas on politics morals and ethics no society can exist. If men and women try to create a society in which there is no fundamental agreement about good and evil they will fail. If society has the right to make a judgment that a recognized morality is as necessary to society as, say, a recognized government, then society may use the law to preserve morality. Therefore, society has a right to legislate against immorality as such.

That is the key question in this matter. We are not legislating for morality but we have a responsibility to the community to preserve the morality of that community. I read further from what Lord Devlin wrote:

> Society is entitled by means of its laws to protect itself from dangers, whether from within or without. Here again I think that the political parallel is legitimate. The law of treason is directed against aiding the king's enemies and against sedition from within. The justification for this is that established government is necessary for the existence of society and therefore its safety against violent overthrow must be secured. But an established morality is as necessary as good government to the welfare of society. Societies distintegrate from within more frequently than they are broken up by external pressures. There is disintegration when no common morality is observed and history shows that the loosening of moral bonds is often the first stage of distintegration, so that society is justified in taking the same steps to preserve its moral code as it does to preserve its government and other essential institutions.

Honourable members should think about that and their responsibility as parliamentarians. It has been suggested that the bill does not matter very much in this House, that it will go to another place and will be amended. I find that somewhat distasteful because it suggests, though it is supposed to be a matter of conscience for members of this House, some previous arrangement has been made. I do not think it is right for speakers from the Government benches to make that suggestion. I say no more than that on that topic.

Honourable members have spoken about the breakdown of nations. Homosexuality in England has received much publicity recently due to the fact that there are many men in high positions who have been found to be spies for foreign governments and who have been blackmailed because of their homosexual activities. In Australia we have an organization at which we have to look.

The Hon. J. R. Hallam: Are you talking about ASIO or CIA?

The Hon. N. M. ORR: I am talking about the organization of the homosexuals in Sydney. They also have a coalition that comments on various matters. I have mentioned the responsibilities of honourable members to the community. I shall say something now about our responsibilities to the community as parents and, perhaps, grandparents to be. I show honourable members another of the gay pamphlets. Honourable members will be able to see the face of a young school boy and a school class on

the face of the publication. That publication is circulated freely in the community. Yet honourable members speak about people being affected by restrictive laws and discrimination against them. One of the articles in that publication in regard to the homosexual kit that was produced reads:

> Meanwhile in New South Wales a homosexuality information kit for schools gets its funding despite Wal Fife's desperate squirming.

That is the sort of thing this organization publishes to encourage young people of our community towards homosexuality. It illustrates what that organization is trying to do in the schools. Doubtless honourable members have already seen copies of *Young, Gay and Proud.* Let me read what I believe is a pertinent point made in that publication. The inference is that the article has been written by a school teacher. It reads:

> That's going to be hard because a lot of things need changing first. For instance, schools have to change before things are evened up. Most of them aren't great places to spend all day in. We know because most of us work in them. We're working to change them too.

This group of people openly state that they are organizing to sabotage and recruit children. I shall quote from an American source how homosexuals exploit children. Dr Judianne Densen-Gerber, a nationally known authority on child abuse, who visited Australia not long ago and received much publicity, has estimated that as many as 120 000 children in the New York metropolitan area are involved in some type of sexual activity for money. There are male brothels in Kings Cross. We know that, following an uproar, there was a crackdown to some extent on the number of young people who were soliciting in Kings Cross; they are not homosexuals, but they were being recruited and exploited by homosexuals and turned into homosexuals. In 1972 a poor-quality pamphlet was published in Hollywood, California, entitled, *Where the Young Ones Are.* The pamphlet listed 378 places in 59 cities of 34 States. Listed were such places as bowling alleys, beaches, arcades, parks and the like. Incredibly, the pamphlet reportedly sold 70 000 copies at $5 per copy. That is the commercial side of homosexuality. Unfortunately, the effects flow to a majority, 90 per cent of whom are fellow travellers with the homosexual movement. The document from which I am quoting goes on to state that an investigation in New Orleans into a sexual abuse ring disclosed a widespread infiltration of adult suspects into all types of national youth groups and youth-oriented organizations. That is what has happened in America, where homosexuals are so highly organized that they have now infiltrated youth groups and various youth organizations.

I shall quote from an Australian publication in this field entitled *Stallion* one of the most dangerous statements I have read in this context. It should cause anybody with responsibility as a citizen, including members of Parliament, much concern. I quote from the issue of *Stallion* No. 12, page 6:

> The time has come to face the fact that there is a sizable minority of gay men who are primarily interested in sexual relationships with adolescents. The child must move away from the family unit of the Christian west. Loving a child and expressing it sexually is revolutionary activity.

I quote from another homosexual publication, *Camp*, volume 4 No. 3/4, page 16:

> The nuclear family, the very basis of our society, is our greatest foe. It is the foe we must attack and in force.

Those are the type of people we are dealing with. The average Australian has the attitude that they are poor so-and-so's, they do not worry us, let us leave them alone. But let us know the kind of people with whom we are dealing. Let us examine the consequences of allowing this group of people to be given public recognition.

The Hon. N. M. Orr]

The organization Sybol has been referred to earlier in this debate. I shall not canvass those matters again, but I have a copy of the letter that came into the hands of the police showing that organization intended to set up a group involving children 5 and 6 years old. I have the letter from the Minister for Police of Queensland referring to the network. The House will probably be interested in another quotation as survival is strong in the breasts of us all. I shall read from a publication entitled *Campaign* dated February 1982. I am sure this will be most informative to honourable members. The complete text is available should it be felt that I am reading only selective quotations. The publication contained a letter, which reads:

> Following the recent defeat of the Petersen bill, I feel the time has come for the formation of a gay political action group comprised of both Labor and Liberal supporters. . . . I believe steps must be taken to increase branch membership of the major parties with gay people or gay sympathizers. In the Labor Party, a member has only to attend three meetings of his branch within the previous twelve months to be eligible to vote in the pre-selection ballot to select a candidate for the local electorate. In most electorates, comprising a number of branches, only fifty to seventy people are eligible to vote. Where more than one candidate nominates, very few votes can determine who gains pre-selection.

The Government should be wary of the danger of infiltration into the Labor Party by these people. The letter continued:

> As we know which Members of Parliament voted against the Petersen bill, it seems reasonable and feasible to attack branches within the electorate of these members with a view to ensuring a favourable candidate gain.

Are these the quiet fellows who are alleged to do nothing to society? Are these the people we are told not to worry about and who should be given the green light to continue their activities? One sees by that letter that they are becoming organized to get themselves into politics in a clever and effective way. It concluded:

> A Gay Political Action Group could be organized from all the gay groups and churches now in this State and I feel that such an action group would eventually achieve the desired effect.

The editor's note at the foot of the letter read:

> Such a group has already been formed in Sydney last month. See report in news pages.

I shall read a further letter published in *Campaign*:

> I write concerning the recent resignation of the federal member for Lowe, and media reports that the present member for the State seat of Drummoyne (a right-wing Labor member by the name of Maher) will win the endorsement of his party for the vacant seat.
>
> In the light of the member for Drummoyne's speech in this Parliament of this State on the Crimes (Sexual Offences) Amendment Bill made on November 25 last (page 874, N.S.W. *Hansard*), it is imperative that he be given preference on the ballot paper by anyone entitled to vote in this most important by-election.

The letter continued in that way. That is action taken by the alleged inoffensive homosexuals who do no harm to anybody and who, it is said, should be allowed to develop their activities in our community. These are the people with whom we are

dealing. I do not think that honourable members on either side of the House have done very much homework on this matter. Had they fully studied the subject, I believe that their attitude would be different.

One should not have any false pity for homosexuals. There is no medical evidence to support the idea that people are born homosexual. Persons who are born with strong homosexual tendencies are a minority of those who are active in this movement. The movement comprises many people who are exploiting the situation. They know there is a quick quid in all this in male brothels, gay publications, homosexual discos and all the other manifestations. Are we to give the green light to such people? The legislation before the House is ill-advised. I have concern for all people. We should be providing help to homosexuals, making available more clinics, and advertising the fact that homosexuals can be reoriented. I believe that when arrests take place, the cases should be regarded as first offences and heard in closed courts. The offenders should then be moved on to clinics. There is no doubt such a system would cater for the majority of people who have a tendency to become homosexuals rather than the great majority who are fellow travellers, seeking only to hop on the commercial bandwaggon. That is the type of legislation we should be considering in this Parliament, not a bill of the nature of that introduced by the Hon. B. J. Unsworth.

To sum up, I believe that we are dealing with an abnormal group of people. If one seeks to deal with an abnormal situation by clutching it to one's bosom, I believe one will become defiled. One will not help those in need. Our society is at a watershed. One has only to look at the tremendous steps made by this group in our society in the last year or two. Their behaviour shows how militant, aggressive and power-hungry they are and how subtle their recruitment campaigns in the schools and elsewhere. We are dealing not with people who need a little sympathy. We are dealing with an aggressive group that is out to white-ant the social structure. Its motto is, Smash the family. That is the operating phrase in the propaganda. The idea is to get among the children and the sky is the limit.

As parents, and possibly as grandparents, we all know the tremendous pressures on children today. We know how the commercial world has access to them. Enough money appears to lead children in the direction those commercial interests wish to see them go. In this context we have a group of people who are taking advantage of the situation. We must not be Pontius Pilates and wash our hands of the problem. We must bite the bullet and accept our responsibility as parliamentarians. We must put our personal ideas to one side. We have a responsibility to the community. We know what the community thinks. There is no widespread acceptance in the community of this behaviour. Ignorance among the community has led to this organization—and it is organized—having a head start. I leave the House with one thought. The law of averages being as it is, I predict what will happen within the lifetime of many people in this House is that one day one of their sons will come home sick, disillusioned and hurt. He will be a victim of a homosexual. Will we blame that homosexual or will we blame ourselves for making it possible for that group to expand in the way it seeks?

The Hon. R. F. TURNER [8.40]: I am aware that honourable members have the opportunity in this debate of speaking as individuals and not upon party lines. I am aware that the voluminous submissions from the gay movement, which has been well-directed, intelligent and well thought out, are against this proposed legislation. I have considered those submissions and I admit that I am in sympathy with the views they express. I agree that the relevant provisions of the Crimes Act are anachronistic; that the language used is disgracefully emotive, and that it should not be there; and that the legislation denies natural justice to a significant minority group within the community.

I have listened intently to the views expressed ably by Reverend the Hon F. J. Nile and by other members of this Chamber, and I have considered the views given by members in the other place on this issue. As well, I have been reminded of the many passages in the Bible that relate to the issue, and I have considered the views *ex cathedra* of His Holiness the Pope. In addition, I have considered the statements issued by representatives of other churches. It is necessary that one, first, decide whether all those views should be brought to the forefront in one's deliberations on this subject, to the exclusion of all other views. I am tempted—and I know my colleagues will be relieved that I have resisted the temptation—to divert into giving a dissertation on the natural law and to express my opposition to the views of the proponents of what is called positivist law. I have been urged by my close colleagues not to lapse into the use of Latin terms. I am reminded of the expression most of us learnt when we were children—*Domine non sum dignus*—Lord I am not worthy.

Many years ago Mr Justice Collins of the Supreme Court, who is now retired, was appearing before what was then the Full Court of this State and addressing the Chief Justice, Sir Philip Street—the father of the present Chief Justice—who referred to him as Mr Dignam. A former judge of the Workers' Compensation Commission, and at one time Australia's ambassador to Ireland, he was a lad in the area where I lived when I was a boy. Mr Justice Collins—he was then known as Barney Collins—replied *Domine non sum Dignam*—Lord I am not Dignam.

I have considered seriously the natural law and the positivist law, whether I should give preponderance to biblical authority or whether I should use my commonsense, my experience or the value judgments that I have made from using my commonsense. On reflection, I support the latter view. It is not the first time that I have had to come to this kind of decision. During 1973 when Senator Murphy—now Mr Justice Murphy of the High Court—was the federal Attorney-General in the great days of the Whitlam era, I took part in discussions on amendments to what was then called the Matrimonial Causes Act. I had strong views on that legislation. I regarded it as being pornographic for it used words like bestiality and sodomy. One believes that justice should be not only tempered with mercy but also objectively scientific, kind and possessive as Reverend the Hon. F. J. Nile would say, having in mind the concept of Christian love. But, of course, it was not so. Legislation has not always been like that.

Surely no honourable member would suggest that the capitalists who exploited boys as young as eight years of age by working them in the coalmines of the old country—and even here in the early days of the colony—were homosexuals. They did it because they were selfish and greedy. In looking at the problems of the world and those of homosexuals I refer honourable members to possibly the greatest of all historians, Arnold Toynbee. His work on the history of the making of man has a chapter on the disintegration of society and the schisms of the soul. With great respect to the Hon. N. M. Orr, honourable members would not support those views. I have been faced with a similar decision before the Family Law Bill was introduced. Reverend the Hon. F. J. Nile will remember that I was a guest speaker at the Thomas More Society, the Guild of Catholic Lawyers. Reverend the Hon. F. J. Nile was one of those against the proposed legislation. The majority of churches took the view that that legislation—which in some respects reminds one of this legislation—was going to hasten Armageddon and that society would break down. Some of us at that time believed that the old matrimonial causes legislation was unfair, that it was discriminatory and that it denied natural justice, just as I believe the legislation under discussion does to homosexuals.

This legislation uses emotive words which deny objective consideration of the problems with which we are concerned. I supported the view that marriage is a sacrament and for those who support that view divorce is not available. One cannot sever the sacrament of marriage. However, the overwhelming demands of society were that the matrimonial causes legislation was unfair and that there should be dignity brought into the breakdown of marriage. It was thought that people should be able to end an unfortunate marriage, remarry and protect the children of unfortunate marriages. At that time there was a dichotomy of obligation to the church, to one's views and to the call of society. It was a question of making up one's mind, a question of commonsense and using one's own experience. I have practised the law for thirty years. In my younger days I practised exclusively in criminal law. I have appeared in many dreadful murder trials and in cases involving multiple rapes of women. Fortunately the legislation applicable to crimes of that kind has been changed. Some of the more emotive words have been removed from the Act. Some sexual offences are absolutely disgraceful. When one reflects on those offences, one must agree that the behaviour of most homosexuals would pass almost unnoticed.

When considering this legislation and its emotiveness one uses one's commonsense. I well remember that my first introduction into parliamentary draftsmanship was the amendment of legislation following a Royal commission into what we now call mental hospitals. Until 1958 those institutions were called lunatic asylums. That great and good man, now long demised, the Hon. William Francis Sheahan, Q.C., the father of the Minister for Housing, Minister for Co-operative Societies and Minister Assisting the Premier, introduced the Mental Health Act. No longer were hospitals called lunatic asylums or their patients called lunatics. No longer was the Master in charge of their affairs called the Master of Lunacy. Dignity was offered to mankind. Surely the quintessence of relationships is extending dignity to each and every individual. Emotive words take away from that dignity. For instance, when persons come before courts many take the view that they are guilty before they are charged.

If the matter were left to me, I should have suggested that there be removed from the Crimes Act all male sexual offences and that special legislation be introduced to deal with the matter objectively, somewhat similar to the legislation that was introduced relating to offences against women. That has not been done. I am attracted by the argument presented by the Hon. W. J. Holt. In Churchillian tones he advanced an argument in support of compromise. On the subject of compromise, I enjoin all honourable members to read the magnificent book written by that great President of the United States of America, J. F. Kennedy, *Profiles in Courage*. At the beginning of the book there is an essay on compromise and what it really means. One need not sacrifice one's principles; one can find middle ground where compromise can be reached with other persons; one reaches a decision. Those honourable members engaged in the trade union movement, especially the leadership of unions, including the Hon. J. D. Garland, the Hon. H. B. French, the Hon. P. F. Watkins, and the Hon. B. J. Unsworth, particularly during his days as an organizer with the Electrical Trades Union, each and every day when representing their members have to arrive at a compromise with employers. It is a pity that the Hon. R. I. Viner, a Minister in the federal Government, did not confer with those who had knowledge of the trade union movement instead of introducing the type of legislation he has brought before the federal Parliament.

I thank the Hon. W. J. Holt for suggesting compromise. It is most befitting that the Hon. B. J. Unsworth should introduce the bill, which he did in a dignified and learned way, and with sympathy. The bill is indeed a compromise. Speaking for myself, I would have supported taking the type of conduct under discussion out of the Crimes Act. This significant minority group is deserving of well-considered, special

legislation. In the spirit of compromise and after listening to the arguments advanced by honourable members on both sides of the House I am happy to say that I support the bill.

The Hon. ELISABETH KIRKBY [8.54]: It is with great regret that I have to speak against the bill. Initially I believed it to be a step in the direction of homosexual law reform. The more I studied the provisions of the bill, the more I became aware of the dangers inherent in the measure. As an avowed supporter of law reform for homosexuals, I consider that the bill, if passed, would prove to be more damaging than present legislation. In fact, it entrenches in 1982 the attitudes and mores of 1900. For reasons that I shall now explain, I believe that to entrench those attitudes and to perpetuate on our statute book the medieval conception of the abominable crime of buggery is morally and socially indefensible.

I have said that I support homosexual law reform. I shall try to be completely factual in my support, as all honourable members are aware that the subject has been presented to this House, and previously to another place, in a most emotional manner. All honourable members would have received reams of exaggerated propaganda, some of which was shown to the House tonight by the Hon. N. M. Orr. I consider that under the circumstances only a calm and non-judgmental approach to the legislation is appropriate. First, one should be careful when one presumes to define "The Word of God". Leviticus is one of the books of the Old Testament. Even members of the Jewish faith do not consider it to be the word of God. For them the Old Testament is a history of their race; it is part of their heritage and important to them. However, they do not suggest that every word is divinely inspired. One should be careful also about New Testament theology regarding homosexuality.

There would be no subject that this House may discuss on which it is not possible to bring before it conflicting bodies of considered and rational opinion. As far as homosexuality is concerned, many leading churchmen of all denominations and of all sects consider that the law should be reformed. I have a list of these eminent and respected clerics and rather than take up the time of the House by reading it I seek the indulgence of the House to have a list incorporated in *Hansard*.

The PRESIDENT: Is leave granted?

Reverend the Hon. F. J. Nile: No.

The PRESIDENT: Leave is not granted.

The Hon. ELISABETH KIRKBY: I shall read the list. Some of the Australian churches and church leaders that have expressed public support for homosexual law reform include: the Anglican Arch-Diocese of Melbourne; the Anglican Diocese of Canberra–Goulburn; the Anglican Archbishop of Perth, the Most Rev. Geoffrey Sambell; the Anglican Archbishop of Adelaide, the Most Rev. Keith Rayner; the Anglican Bishop of Ballarat, the Very Rev. John Hazlewood; the National Catholic Commission on Justice and Peace; the Diocesan Pastoral Council of the Catholic Church of Tasmania; the Roman Catholic Archbishop of Perth, Sir Launcelot Goody; the Presbyterian Assembly of New South Wales; the Presbyterian Assembly of Victoria; the Presbyterian Assembly of Western Australia; the Methodist Church of Australasia; the Methodist Conference of Western Australia; the Methodist Conference of New South Wales; the Rev. Alan Walker, Director, Sydney Central Methodist Mission; the Rev. Keith Seaman, Director, Adelaide Central Methodist Mission—now Governor of South Australia; the Congregational Church of New South Wales; the Congregational Church of South Australia; the Congregational Church of Western

Australia; the Sydney Regional Council of the Society of Friends; the Unitarian Church of Melbourne; the Council of Churches of Tasmania; and the Council of Churches of Western Australia.

I shall quote from a statement made by Bishop Cletus O'Donnell of Madison in the United States of America. Bishop O'Donnell emphasized:

> . . . that a family means more than a mother, father and two kids living happily in a single-family home. In our families we have to have room for widowed persons and divorced persons, for handicapped persons, and for persons with different sexual identities, for the gay people . . . In our programmes we want married couples to minister to each other and single people to minister to each other and handicapped people and gays and all of the groups which make up the Christian community to minister to each other.

The second facet of the problem that should be considered in this debate is the way opponents of reform have sought to nullify statistical evidence. I refer especially to the work carried out between 1938 and 1963 at the Institute for Sex Research at Indiana University by Dr Alfred Kinsey. It has been said that Dr Kinsey's statistics have been discredited. However, the 1938–1963 data were reworked in the 1970's by Dr Paul Gebhard the director of that institute. His tabulations indicate that 13.9 per cent of males and 4.25 per cent of females—a combined average of 9.13 per cent of the population—had either extensive or more than incidental homosexual experiences.

In Australia it has been estimated conservatively that more than 10 per cent of the population are homosexual. I assure the House that of the 10 per cent, 75 per cent would never be recognized as being immediately different. In other words, the stage image of a lisping effeminate, limp-wristed homosexual is a fallacy. That is a stereotype which is as inaccurate as any other racial or cultural stereotype. Those in the community who know how cruel and wrong racial stereotypes can be will understand what I mean. I invite the attention of the House also to an affidavit sworn by the American Psychiatric Association. I have introduced this matter to rebut what was said by the Hon. N. M. Orr. The affidavit was signed by the administrative officer of the Department of Social and Ethical Responsibility on 16th January, 1976. It read:

> The American Psychiatric Association has gone on record as strongly advocating the elimination of all discrimination against homosexual men and women that is based solely on the fact that they are homosexual. In a resolution, passed on December 5, 1973, the Board of Trustees of the American Psychiatric Association adopted the following resolution: Whereas homosexuality per se implies no impairment in judgment, stability, reliability, or general social or vocational capabilities, therefore, be it resolved that the American Psychiatric Association deplores all public and private discrimination against homosexuals in such areas as employment, housing, public accommodation, and licensing, and declares that no burden of proof of such judgment, capacity, or reliability shall be placed upon homosexuals greater than that imposed on any other persons. Further, the American Psychiatric Association supports and urges the enactment of civil rights legislation at the local, state, and federal level that would offer homosexual citizens the same protections now guaranteed to others on the basis of race, creed, and colour.

The third facet of the problem that I would commend the House to consider is the view that has been expressed in this debate and is so often expressed wrongly: that homosexuals are a hazard to society because they prey on children. For some reason

child abuse and paedophilia are now becoming inextricably linked with homosexuality. Why? The statistics show clearly that that is a fallacy. In 1975 the New South Wales Bureau of Crime Statistics and Research found that 94 per cent of prosecutions for sexual assault upon females were heterosexual, 99.6 per cent of prosecutions for sexual intercourse with a person 10 to 15 years of age were heterosexual, and more than 97 per cent of all prosecutions for prostitution were of females. In this regard honourable members should consider also the findings of the New South Wales help centres for sexual assault victims. Those statistics show that 40 per cent of the attacks were committed by a friend, relative or acquaintance of the victim. They reveal also that the figure would be higher if all attacks were reported, and higher still if only child sexual abuse were included. Certified figures from reputable authorities in the United States of America support those findings.

The American Humane Association study by Vincent de Francis stated that more than 90 per cent of sexual assaults on children were on females, and that 75 per cent of child molestations were committed by family and friends of the family. The Oregon Department of Human Resources found that between 1973 and 1975 about 85 per cent or 90 per cent of cases of sexual child abuse involved fathers, stepfathers, grandfathers, uncles and mothers' boyfriends. It is known, also, that 45 per cent of child molesters are the child's father. I have given those statistics so that honourable members will be clear in their minds about the relationship between child abuse and homosexuality. Child abuse, especially the sexual abuse of children, is a social evil that cannot be overlooked. It is a problem that deserves consideration by all members of the community. To link it with homosexuality is fallacious and an argument that does not bear examination.

It is equally fallacious to relate homosexual behaviour with a rising incidence of sexually-transmitted diseases. I shall give two examples that have been collected on statistical evidence from hospitals and sexually-transmitted disease clinics in Victoria and New South Wales. Syphilis constitutes a minuscule threat to the heterosexually active community. Homosexual law reform would not increase that threat. It might diminish it by assisting in the control of syphilis in the homosexually active population. That could be achieved by the introduction of routine testing, as is now done for all pregnant women.

Gonorrhoea is a much more widespread disease. The report by the British co-operative clinical group of the Medical Society for the Study of Venereal Disease has shown that 90 per cent of gonorrhoea is heterosexually acquired. It follows that homosexuals cannot be a threat to the heterosexual population in that regard. It is relevant to state to the House that syphilis and gonorrhoea are practically unknown among lesbians. As a woman, I regard that as an important fact. Many of my sisters are infected by their husbands who may believe that they have a right to promiscuous heterosexual behaviour. How many of those men condemn and abhor homosexual behaviour?

Recently further incorrect information has been widely propagated about a disease kaposis sarcoma, which is supposed to be rife in the gay community. I checked with Dr Anders of the venereal diseases clinic in Sydney and was informed that only four cases have been reported in the United States of America—none in Australia. The four men involved in those cases were all on amylnitrate. Any person would find difficulty in justifying a claim that that disease is caused by homosexuality. At the beginning I said that this subject is emotive; so it is. As a woman and as a mother of sons, I know how fragile all human beings are when it is necessary to discuss openly sexuality and the problems of sexual identity. Few of us are fully at ease with our own sexuality.

The taboos and myths that surround our upbringings are carried with us into adult lives and are passed on to our children. Perhaps the greatest myth of all—and one that quite rightly concerns most persons—is that homosexuality can be caused by seduction at a tender age. An increasing body of scientific evidence is now available—evidence that was not available 50 or 100 years ago—and it shows that by five years of age the direction of a person's sexual orientation is determined. In this regard I should like to quote the view of a leading authority in the United States of America, Professor John Money, professor of psychiatry at the John Hopkins University in Baltimore. He says that three points need to be considered when one is trying to discover the cause and development of one's sexual orientation. The first point concerns heredity, or genetics, that there is no clear evidence that homosexuality is inherited. The second point is concerned with the stage of development in embryonic and foetal life before birth—the field of work for which Professor Money has a worldwide reputation. In discussing this point in some detail Professor Money said:

> When babies are born they may have a different disposition as to whether it will be easy for them in the postnatal period of learning: to learn and establish the traditional feminine gender identity, or a purely masculine one, following stereotypes, or whether the baby will develop a potentiality to easily be bisexual. That means that it's quite possible that it is—and I'm summing up now—a prenatal disposition that comes from hormones that makes it easier for some children in their infancy and early childhood than for others to become bisexual, and that automatically means it's easier for them to become homosexual in the pure sense. However, whatever happens before you're born does not guarantee what's going to happen to you after you're born.
>
> I use here the analogy of native language again. No matter what your brain is like, whether you're going to be mentally retarded in getting your language or a genius at getting it, your native language is still going to be the one that you hear from the people around you. And so it is with gender identity. The influence that comes from the social environment is profoundly important in enabling a person to establish a gender identity. People who establish a bisexual gender identity or a homosexual gender identity usually have done so by the time they are eight years old at the latest. Often, it will have been by five years old. Old-fashioned opinion used to think that people became homosexuals at puberty or in early teenage, but that is not so. It's simply that when the hormones of puberty appear, then the disposition that's already developed in the mind and in the brain comes to full flower and shows itself completely.

One should conclude from that opinion that it is most important that young children should be guarded. But tonight members have been talking about teenage boys and the proposition that as a result of their seduction by the militant gay community those boys could become homosexual. That assertion is incorrect, and it should be refuted. From the quotation I have just read it is clear that it is not yet understood how complex familiar and cultural factors combine to determine a child's sexuality, but it is certainly well documented that all human cultures produce people whose primary sexual or emotional preference is for their own sex, just as all cultures produce people whose primary sexual and emotional preference is for the opposite sex.

If I still have not convinced honourable members of the fallacy of the seduction theory, I ask one question: do honourable members believe they could be converted to homosexuality, either by pleasure or by pain? I ask that question because pain seems to be what is being suggested when persons advocate aversion therapy to cure homosexuals. All honourable members knew whether they were heterosexual or

homosexual long before their first sexual experience. They know that they were not seduced or actively encouraged towards their lifestyle. When considering this legislation, members should consider all those aspects. Surely in 1982 we must attempt to rid ourselves of prejudice, bigotry and fear. I can produce statistics and scientific evidence to support everything I have said. I do not presume to question philosophy. Instead, I shall quote this statement of Archbishop John J. Roach, the Archbishop of St Pauls in Minneapolis:

> Both the Christian tradition and our American nation are committed to the inviolable dignity of the human person. Some persons find themselves to be homosexual in orientation through no fault of their own. It is a matter of injustice when, due to prejudice, they must suffer violation of their basic human rights. Like all persons, they have the right to human respect, stable friendships, economic security and social equality. Social isolation, ridicule and economic deprivation of homosexual behaviour is not compatible with basic social justice.

I wish I could say that I believe the bill before the House is compatible with social justice. However, the more I read it the more I am concerned that, unless it is amended substantially, it will not bring about genuine reform. I draw the attention of honourable members to some of the clauses of the bill and their implications. The offences of buggery and gross indecency are not actually being repealed. In fact, the latter offence is couched in terms that are not gender neutral, and specifically discriminate against male homosexuals. The provisions prohibiting sexual activity where there are more than two participants or observers, are discriminatory. The references to prohibiting offences other than in private are, first, discriminatory, second, unnecessary, for the Offences in Public Places Act already covers those situations, and third, they are open to use by police to harass homosexuals and some gay establishments.

Some concern has been voiced about the discriminatory nature of the clause dealing with consenting adult males in private. That is because of the experience in England where prosecutions of gay men have increased since the passage of similar legislation in 1967 and because it denies the opportunity of equality before the law. As I said at the beginning of my remarks, to include a section on buggery is offensive and indefensible. Buggery can best be dealt with under sexual offences legislation. I fear that the bill will be interpreted, particularly by the police, as further restrictive legislation. That is why I cannot support it. I shall support repeal of the existing anti-homosexual laws of this State; for all of the reasons I have outlined I shall support true reform; but I regret that I cannot support this legislation as it stands. I have grave fears that no amendment will render the bill suitable.

The Hon. P. S. M. PHILIPS [9.22]: I propose initially to state my general position. I have access to field work on this subject in the city but not in the country, and I am quite satisfied that the present law needs changing as far as the city is concerned. I am opposed to the more progressive clauses of the Petersen bill on the ground that they run too far ahead of public opinion. Initially I intended merely to record a vote on the Unsworth bill. However, on further consideration I have formed the view that my position could be misconstrued if I did so. Accordingly, I shall explain shortly where I stand.

The bill is not well drafted. For example, it contains no definition of public place. Experience with other legislation shows that this term can be interpreted in a number of ways by the courts. Proposed section 81BA (2) which deals with the consent provisions is drafted too loosely also. The drafting of the Crimes (Sexual Assault) Amendment Bill was much tighter. Nevertheless, a bill that improves the present

position is better than no bill at all. My understanding is that the primary purpose of the bill is to legalize homosexual acts between consenting adults indulged in privately. It must be recognized that homosexuality exists in our community. Whether it is the way of life one would choose or not, it exists. To condemn such behaviour out of hand is in my view narrow-minded, archaic, and barbaric.

The bill is a follow on from the Crimes (Sexual Assault) Amendment Act, 1981. It will result in the removal of the existing injustice that a person committing a homosexual act is liable to a penalty of imprisonment for 14 years, whereas a person who commits sexual intercourse without consent—the old concept of rape—is liable only to penal servitude for 7 years. That is not to say that certain restrictions should not be put on homosexual behaviour. Based on my earlier remarks, I support proposed section 81BA, which provides that there shall be no offence under the Act in respect of homosexual acts between consenting persons over the age of 18 years.

The importance of that provision is twofold. If there is no consent, the act is akin to rape, and an infringement of a person's rights to do what he desires with his body. Further, it is of supreme importance—and I cannot emphasize this enough—that male persons under the age of 18 years should be protected. At 18 a person can vote and is deemed to have a knowledge of the world such as to enable him to come to an informed judgment. At a lesser age, that is not possible. The youth of this State must be protected.

Honourable members have heard the sorry stories of young males of 14, 15, and 16 who go to Kings Cross and are willing to engage in sexual activity with older male persons to get a roof over their heads for a night or to get a meal. These young people have no appreciation of the harm that that activity is doing them. Despite what has been said, it is well accepted by psychologists in this country that in the early teens a person may be both heterosexual and homosexual. The sex role is not defined. These youths are not going to Kings Cross because of sexual inclination but purely for economic reasons. While the Government neglects to take adequate measures to provide refuges and help for runaway children, the least that can be done is to protect them from being exploited by older men. Therefore, it is essential that an age limit of 18 years for consent be incorporated in the proposed legislation. In addition, it is essential that that consent be free and voluntary and not be induced by threats or terror. I refer to proposed section 81BA (2) (a).

Another critical restriction on acts of homosexuality between consenting adults is that those acts must be committed in private and must not offend other members of the community, for example, in lavatories, as acknowledged in the bill. Though I regret that I have not had more time to study the provisions of the bill, I am broadly in favour of it subject to the deletion of proposed section 81BA (3) dealing with persons between the ages of 16 and 18. I have listened with close attention to what the Hon. R. D. Dyer has said but I am not convinced. I shall, of course, take a strong position on that aspect in Committee.

The Hon. J. S. THOMPSON [9.27]: In common with most members of the community I have definite views on the problem of homosexuality, and I use the word problem deliberately because in my view homosexuality is a major problem. The Hon. B. J. Unsworth should be congratulated on coming to grips with the problem. Before the bill was introduced I discussed this matter privately with him. I held strong views, and my original inclination was to oppose the bill in its entirety. I have altered that view slightly. I say without equivocation that I will oppose any changes to make the bill more liberal. I will not agree to one word more than the bill already contains.

The Hon. R. B. Rowland Smith: What assurance does the honourable member have that the bill will not be amended in another place?

The Hon. J. S. THOMPSON: I shall come to that aspect in a moment. The bill must be considered in the light of its effect on the fabric of our society. Anyone who did otherwise would be hypocritical and would ignore the facts of life. I have strong views on the family. Anything that may destroy the family will go a long way towards destroying society. Whether one is rich, poor, or middle-class, the family is the cornerstone of society. It is a matter of concern to me that over the past 15 years—especially the past 5 years—a great deal of legislation passed has had the effect of eroding the strength of the family or the control it exercises. If we continue to do that, we do so at our peril.

As a union official I attend to many of my members' difficulties about matters other than industrial issues. Some of the difficulties facing people are frightening, and are becoming worse. About a year ago at my father's funeral I had discussions with a Catholic priest. He told me of the many troubles encountered in that area and how the suburb has changed since I was a boy. I was born and grew up in Manly. I attended the Christian Brothers school there. It was a beautiful suburb in which to live. The priest told me that about 40 per cent of the children who attended the Christian Brothers school were from single parent families. We cannot legislate to legalize homosexuality without attacking the family. It has been said that homosexuality is nothing to worry about and it is only an alternative form of sex. It is not. The facts of life are that it is an unnatural act. It is nonsense to take the soft line on homosexuality. This type of virulent poison that has been injected into our society should be eradicated.

The Hon. J. W. Kennedy: The honourable member should vote against the bill.

The Hon. J. S. THOMPSON: If the honourable member listens, I shall tell him what I shall do.

The Hon. J. W. Kennedy: The honourable member could vote with the members of the Opposition who will oppose the bill.

The Hon. J. S. THOMPSON: I was under the impression that members opposite would vote according to their conscience. It will be a grim day when I have to cross over to the Opposition benches to vote.

The Hon. R. B. Rowland Smith: Has the honourable member a conscience?

The Hon. J. S. THOMPSON: It is because I have a conscience that I would not cross over to the Opposition benches. It has been said that we should not discriminate against homosexuals. Those misguided members who have made that statement should analyse what they are saying. They are actually asserting that there is nothing wrong in a man marrying a man and a woman marrying a woman and adopting a child. If they do not believe in that, they believe in discrimination. If that is discrimination, I support that sort of discrimination. Some honourable members have not come out into the open in the debate. They have skirted round the issue and have quoted notes from the American universities. There are many freakos in those institutions. The Hon. B. J. Unsworth and I have visited some of them and know that to be the fact. Homosexuality is an unnatural act. Any person who says it is not is either fooling himself or being dishonest in trying to fool other people. Homosexuality has to be accepted as unnatural.

I disagree with some remarks of the Hon. P. J. Baldwin. He said homosexual acts are not unnatural, and that the measure was appalling because it did not go far enough. Nevertheless, he said he would support it. The legislation is not appalling and

I am willing to support it in its present form. The Hon. P. J. Baldwin said that he finds nothing offensive in homosexuality. He and I are poles apart on that issue. The Hon. P. J. Baldwin said he was concerned about harassment of homosexuals in public toilets. A man should be able to enter a public toilet without being harassed by a pervert. The bill introduced by the Hon. B. J. Unsworth is fundamental and I should not vote for a bill that legislated for more drastic changes. Two consenting males who engage in homosexual acts in private, have reason to seek changes in the present legislation. I accept that they should not be harassed.

The Hon. R. B. Rowland Smith: The honourable member has destroyed his argument.

The Hon. J. S. THOMPSON: That is not correct. Two consenting persons engaging in homosexual practices in private have a perfect right to do so. I would not attempt to interfere with them, nor should the police interfere with them. They should not be harassed or subjected to any penalty.

The Hon. P. S. M. Philips: Unless they are under 18 years of age?

The Hon. J. S. THOMPSON: Of course. That is as far as I am willing to go. It has been said that the legislation will be amended in another place if it passes through this House. I shall oppose any amendments moved in another place.

The Hon. J. W. Kennedy: The honourable member cannot do that.

The Hon. J. S. THOMPSON: That is not correct. I support the bill in its present form. It is good and fair legislation. It removes some of the most contentious issues in our society.

The Hon. J. C. J. MATTHEWS [9.37]: I oppose the bill, but make it quite clear that I have compassion for minority groups in our society. I acknowledge that persons adopting a homosexual lifestyle have difficulties and are subjected to harassment. However, as a newly-elected member of this House, I am a little disappointed that the House has spent a day debating issues affecting a minority group in our community. The Government is confronted with horrific problems with transport, traffic, hospitals, power and liquidity in the State's Treasury, and this House should be debating such issues.

The Hon. D. P. Landa: On a point of order. The honourable member clearly misunderstands what today is all about. In accordance with the traditions of the Westminster system of Parliament, today is private members' day.

The Hon. R. B. Rowland Smith: What is the point of order?

The PRESIDENT: Order! No point of order is involved.

The Hon. J. C. J. MATTHEWS: I said that as a new member of this House I felt disappointment that we had applied ourselves one whole day to this business when there were more important things to be considered.

The Hon. Deirdre Grusovin: Everyone is entitled to justice.

The Hon. J. C. J. MATTHEWS: Surely I can say that I am disappointed. I believe I understand the motivations of the Hon. B. J. Unsworth and his supporters for introducing this bill.

The Hon. D. P. Landa: I do not think the honourable member does.

The Hon. J. C. J. MATTHEWS: I think I do. I am sure I do. The bill is a compromise. It seeks to find a sensible compromise. That I understand. But I believe that in tinkering with this subject of homosexuality and in introducing this legislation

we are opening up a Pandora's box. The Petersen bill was debated at great length for several days in the other place. In the end it got nowhere. I must admit that I could never have supported the Petersen bill. But I do understand the intent of the Unsworth bill.

The Hon. B. J. Unsworth: Does the Hon. J. C. J. Matthews support my bill?

The Hon. J. C. J. MATTHEWS: No, I do not, even though I understand what is being done.

The Hon. B. J. Unsworth: The honourable member admitted it was a compromise.

The Hon. J. C. J. MATTHEWS: It seems to me that homosexual groups are also opposed to the bill.

The Hon. D. P. Landa: How does the honourable member know that?

The Hon. J. C. J. MATTHEWS: I have had two letters about it to date. I shall quote from one of them. Most of the mail I have received since I came to this place has been from homosexuals or from homosexual groups. One communication I received came from Dr Simes, dated 17th February, 1982, and read in part:

> I strongly urge you to vote against the Honourable Barrie Unsworth's bill to amend the Crimes Act with regard to homosexual acts.
>
> Any bill that maintains homosexual acts as crimes but allows two consenting adults performing the acts in private to claim a defence on those grounds is an insult. It is an insult not only to homosexuals, who can recognize high-handed condescension for what it is, but also to the very many heterosexuals, probably a majority to judge by opinion polls, who have decided that homosexuals should be treated equally by the law. It is a sad reflexion on the N.S.W. Parliament that Mr Unsworth can entertain the belief that such an inequitable bill has a chance of success.

I agree with what the Hon. J. S. Thompson said earlier when he described the family as the cornerstone of society. Although we may accept that a person adopts a homosexual way of life, it is my view that we should not in any way promote or encourage that lifestyle.

The Hon. Deirdre Grusovin: Does the honourable member want the police to send them to gaol?

The Hon. J. C. J. MATTHEWS: I do not believe that there is police harassment of homosexuals. My understanding is that there is none. My inquiries suggest that that is so.

The Hon. D. P. Landa: Does the honourable member suggest that the police are ignoring the law?

The Hon. J. C. J. MATTHEWS: All I am saying is that there is no police harassment of homosexuals. I should like to quote to the House this extract from the Wolfenden report:

> 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 specially vulnerable because they are young, weak in body or mind, inexperienced, or in a state of special physical, official or economic, dependence.

The operative word in that quotation is the word young. Certain sections of the homosexual community are most aggressive in promoting their lifestyle in the general community. As a father of six children, two of whom are boys, I should not like to see that sort of propaganda reaching my family. We know that some young people, particularly adolescents, are easily influenced. Though the bill seeks what may appear to be a sensible compromise, young people should be left alone.

I am heartened by what the Hon. J. S. Thompson said. He told this House that he would not give his support to any measure that went beyond the bill introduced by the Hon. B. J. Unsworth, and that if any amendment or alteration should be attempted in the other place and the altered bill should return to this House, he will not support it in that form. Despite what I have heard tonight I do not know of any medical or scientific evidence which supports the notion that people are born with homosexual tendencies. My understanding is otherwise. I believe it is an acquired habit, an acquired lifestyle. If the bill is carried, members of this House will have to take into consideration public perception of their action. I know that the Minister for Energy, Minister for Water Resources and Vice-President of the Executive Council as a fine politician is most sensitive to public perception. The result of this measure being carried will be that the public will perceive the Government to be supporting or softening its stand towards the homosexual lifestyle. That would create an atmosphere conducive to the acceptance of that lifestyle among the younger people in our community. More important, the bill is not satisfactory to signfiicant sections of the homosexual community. It will offend, also, a substantial portion of the general public.

The Hon. H. B. French: Why?

The Hon. J. C. J. MATTHEWS: I believe it will.

The Hon. H. B. French: That is the honourable member's view.

The Hon. J. C. J. MATTHEWS: Yes. And I am entitled to hold that view just as the Hon. H. B. French is entitled to have his. The carriage of this legislation will also result in the public perceiving a lessening of moral standards within our community. Though I would have bitterly opposed the Petersen bill it seems that, at least, that bill was clear. One knew exactly where one stood. One knew whether to support the homosexual community and homosexual practices, or not. I see the Unsworth bill as a compromise but suggest that compromises do not always succeed. In compromises often one finds oneself in an uncomfortable or disastrous position. For that reason I oppose the bill.

The Hon. J. W. KENNEDY [9.49] First I say that homosexuals are to be pitied rather than blamed. All honourable members should have in their hearts pity for a person who is a homosexual. Some honourable members who have spoken have said that homosexuals are born, which I do not believe is the case except on rare occasions. Most people who are homosexuals become homosexuals through sexual deviation. They are a product of the environment rather than of genetic abnormality. Any honourable member who thinks about that will agree with it. Unfortunately, when a person becomes a homosexual——

[Interruption]

The DEPUTY-PRESIDENT (The Hon. C. Healey): Order! There is far too much audible conversation in the Chamber.

The Hon. J. W. KENNEDY: Unfortunately, homosexuals spend their time and their money endeavouring——

[*Interruption*]

The DEPUTY-PRESIDENT: Order! I ask that the Hon. J. W. Kennedy be heard in silence.

The Hon. J. W. KENNEDY: Unfortunately, homosexuals spend their time and money endeavouring to convert others to their particular sex urges. The great danger to our society is the impact that these sexual deviants have upon the youth of our community. I refer particularly to the publicity in relation to the young. All honourable members have read the publication *Young, Gay and Proud*, which was produced as a result of Teachers Federation activity. When we send our children to school we say to Johnny or Mary, or whoever it may be: "Go to school and listen to your teacher. Do what the teacher tells you. Take notice of the teacher." All parents say that to their children when they are going to school. It is a great danger in our society when homosexuals come right out in the open and send literature like *Young, Gay and Proud* to every member of Parliament and spread it throughout the community.

The Hon. Deirdre Grusovin: Who sent the literature to members of Parliament?

The Hon. H. B. French: Who subsidized it?

The Hon. J. W. KENNEDY: The people who are homosexuals, who want to preserve their own perversion.

The Hon. H. B. French: Who subsidized it?

The Hon. Deirdre Grusovin: One of our colleagues sent us all the literature. It was not the Teachers Federation.

The Hon. J. W. KENNEDY: The Teachers Federation nominated two people to do a course in the sexual training of schoolchildren in New South Wales.

The Hon. Deirdre Grusovin: But they did not circularize members of Parliament.

The Hon. Dorothy Isaksen: The federal Government paid for that.

The Hon. J. W. KENNEDY: The Teachers Federation wrote to the federal Government and asked for a subsidy to allow these two students to prepare a course on sexual education in schools.

The Hon. Deirdre Grusovin: The federal Government did not investigate it.

The Hon. H. B. French: The federal Government subsidized it. It was not the Teachers Federation members.

The Hon. Deirdre Grusovin: The federal Government should have investigated it.

The Hon. J. W. KENNEDY: The Teachers Federation nominated these people and helped them to get scholarships.

The Hon. D. P. Landa: You said it was all right to do it.

The Hon. R. B. Rowland Smith: You were the Minister for Education at the time. What did you do about it? You knew about it. You approved it.

The Hon. D. P. Landa: Sure. I am not complaining about it. He is.

The DEPUTY-PRESIDENT: Order! the Hon. J. W. Kennedy has the call.

The Hon. J. W. KENNEDY: In my view every thinking Australian was absolutely disgusted with the sex education kit put out by those two members of the Teachers Federation. It is a disgrace to them and a disgrace to their profession. I do not think any member of this House would disagree with that view. Let us forget who funded it. The federal Government has been asked to fund many things in this State and has done so. They funded these people to produce this kit and without seeing the kit, the Department of Education pushed it out into the schools.

The Hon. D. P. Landa: The department did nothing of the sort.

The Hon. J. W. KENNEDY: In any case, the kit was produced and it went out into the community, for we, as members of Parliament, received it.

The Hon. D. P. Landa: What did you receive?

The Hon. J. W. KENNEDY: The booklet *Young, Gay and Proud.*

The Hon. D. P. Landa: That is not the one prepared by the teachers. That is a Victorian publication.

The DEPUTY-PRESIDENT (The Hon. C. Healey): Order! The Hon. J. W. Kennedy has the call. There will be fewer interjections.

The Hon. J. W. KENNEDY: And I shall try to avoid them. I had referred to the publication *Young, Gay and Proud* and the propaganda that every member of this House has received from the gay society. It was undoubtedly a million dollar campaign.

The Hon. Deirdre Grusovin: We did not receive it from the gay society. We received it from one of our colleagues.

The Hon. J. W. KENNEDY: I ask honourable members, what is the future of our society if homosexuals take over? Honourable members who have been supporting the bill have been talking about female marrying female and male marrying male and adopting children. What is the future of our children and our grandchildren? They will be influenced by the homosexual teachers in our society, employed by the Government of this State.

The Hon. D. P. Landa: What about in the private schools?

The Hon. J. W. KENNEDY: I am dealing now with the public schools. I have nothing to do with the private schools. I ask honourable members to consider this situation seriously.

The Hon. D. P. Landa: What about the bus conductors that are homosexuals? Have you thought about them?

The Hon. J. W. KENNEDY: I ask whether any honourable member has agreed with the homosexual literature that has been explained in this Chamber by Reverend the Hon. F. J. Nile? I must congratulate him on the way he presented his case this evening. It was well thought out and he delivered it in a calm and rational manner.

The Hon. D. P. Landa: What do you think of the document he circulated?

The Hon. J. W. KENNEDY: I hope members on the Government side have taken notice of the things that he has researched and of which he has knowledge. He spoke in a fair and reasonable manner. He did not criticize any member of this House. He tried to give the facts. I ask honourable members to think about the facts that he gave. The Deputy Leader of the Opposition, who led the debate on this side, said that this is a free vote. We are not talking party politics in this instance. We ask each honourable member to search his own conscience and remember that—

[Interruption]

The DEPUTY-PRESIDENT: Order! The interjections will cease.

The Hon. J. W. KENNEDY: I ask honourable members to consider the ramifications of the bill. There was an attempt to push similar legislation through the other place. The first bill introduced in another place by the honourable member for Illawarra failed. Then another bill, which was introduced by the honourable member for Cronulla, also failed. Immediately those attempts failed, members from the other place rushed to this House and went into cahoots with the honourable B. J. Unsworth and the next thing was a private member's bill on the notice paper in an attempt to force this bill through this House. The whole thing has been well stage managed and honourable members should be made aware of that. I ask every honourable member to examine his conscience and decide whether this bill will reduce homosexuality, whether it is the answer to the homosexual problem. It is not. It will only encourage them.

The Hon. Deirdre Grusovin: Should they be gaoled?

The Hon. J. W. KENNEDY: No. I have some figures here which show that in 1977 court action on offences of buggery and bestiality were 5.6 per cent of the total charges for sex offences in the higher criminal jurisdictions. Of those charged, 21.4 per cent were acquitted. I do not quite understand what the figures mean but that is what the document says. If honourable members wish it to be included in *Hansard,* I shall seek leave for that to be done. I seek leave to have a document, issued by the New South Wales Department of the Attorney-General and of Justice, Bureau of Crime Statistics and Research, statistical report Number 9, series 2, table 2, sexual offences, courts of petty sessions, incorporated in *Hansard.*

The PRESIDENT: Order! That document is readily available in the Parliamentary Library. No doubt a copy of it was posted to honourable members. The resources of the State should not be used to reprint a document that is readily available to members.

The Hon. J. W. KENNEDY: Thank you, Mr President. I agree with your ruling. If the bill is passed it will simply be the first step. Honourable members will see bill after bill come through the Parliament of New South Wales seeking to legalize homosexuality more from month to month and year to year. I ask whether each honourable member really believes that male on male and female on female is not an unnatural act. It is an unnatural act. Why should honourable members promote it or encourage it? We should help the people who have that sort of sexual inclination and try to guide them away from it. We should not let them contaminate the youth of this nation. If honourable members approve the bill, what will be the future of mankind? Where do we go from here? I hope that the decision tonight is not based on vote-catching tactics. Every member of this House should vote according to conscience and regard homosexuality as an ill. Honourable members will find that homosexuality goes with alcoholism, with the use of drugs and it goes with a criminal element who are using homosexuality to obtain the money to buy the drugs and alcohol they need. Homosexuality is a perversion. It is not natural.

Honourable members have heard mention tonight of doctors who have had to deal with the diseases caused by homosexual relationships between males. We have also heard some of the honourable members talk about the diseases transmitted from husband to wife by those males having outside sexual relationships, either with homosexuals or with other females. My mother was a nursing sister who was educated in England. She was a nursing sister during World War I who nursed hundreds of

wounded soldiers in the Battle of Jutland, France and other areas. My father was a soldier in World War I. He was wounded so often and returned to the hospital so many times that finally he married his nurse and brought her out to Australia. In my young days my mother told me terrible things about venereal disease, homosexuality and the associated problems. My mother brought hundreds of babies into this world. When she came to Australia there was not a doctor within 50 miles. In a soldier settlement area, babies were being born almost daily and my mother would go out in the sulky to bring babies into the world. My mother died when she was eighty-nine years of age. If she knew honourable members were debating a bill like this in this House tonight she would turn over in her grave. On 15th May, 1981, we had before this House the Crimes (Sexual Assault) Amendment Bill, which restricted sexual relations between husband and wife more than the bill now before the House restricts sexual relations between males.

The Hon. Dorothy Isaksen: It dealt only with husbands who raped their wives.

[*Interruption*]

The Hon. J. W. KENNEDY: That measure provides:

> A person who does not offer actual physical resistance to sexual intercourse shall not by reason only of that fact be regarded as consenting to sexual intercourse.

That is between husband and wife.

The Hon. D. P. Landa: What is the honourable member's point?

The Hon. J. W. KENNEDY: I received the bill before the House tonight only when I came to the office. I have read that rather quickly. If the Minister can satisfy me that by the earlier bill the relationship between husband and wife is not more restricted than a homosexual relationship, I shall be pleased to hear from him. According to my reading of the earlier bill it is.

The Hon. Dorothy Isaksen: The Hon. J. W. Kennedy's wife is having him on.

The Hon. J. W. KENNEDY: No, she is not.

The Hon. Dorothy Isaksen: She has been, for a long time.

The Hon. J. W. KENNEDY: The intent of the bill is to establish it is a great thing for male and male to have intercourse or for female and female to have intercourse. I have had only a quick perusal of the bill. I did not have as much time to read the bill tonight.

[*Interruption*]

The PRESIDENT: Order! I am having difficulty in following the argument that the Hon. J. Kennedy is advancing because of interjections. So many interruptions have occurred during the speech of the Hon. J. W. Kennedy that the report of the proceedings will be a joke. The Hansard staff are masters at making silk purses out of sows' ears but I ask honourable members to confine their remarks to the measure that is being debated.

The Hon. J. W. KENNEDY: I should like to bring a number of matters to the attention of the House. I regard this bill as a nonsense; it is the thin end of the wedge. I assure honourable members that if this bill becomes law, we shall see many other bills on the same topic. Homosexuals will be virtually free to recruit

young innocents into their ranks. I am sure we shall live to regret the day that this bill becomes law, if it does reach that stage. I appeal to honourable members to vote against the bill. It will do nothing but encourage homosexuality in our community.

The Hon. D. P. Landa: Is the honourable member in favour of such people being put in gaol?

The Hon. J. W. KENNEDY: No, I am not. I referred to the figures of those who are in gaol. No honourable member can honestly say that homosexuality in mankind is desirable. We should do all we can to assist those who unfortunately have adopted this way of life. We should try to prevent younger generations being caught in this mesh of intrigue and degradation of mankind. Homosexuals in the main are sexual deviants—deviating because of corruption by dedicated and misguided homosexuals who have become embroiled in this sorry sexual mess. It is a mess and, if allowed to thrive under the encouragement of bills such as that now before the House, will cause society to die.

The Hon. J. S. Thompson hit the nail on the head when he called the family the cornerstone of this nation. What will happen to that cornerstone if we allow homosexuality to thrive in our society? What sort of family will homosexuals produce? The bill before the House can only break down the fabric of our society. I shall vote against the bill and I ask the Hon. J. S. Thompson to do likewise.

The Hon. J. S. Thompson: I shall support it.

The Hon. J. W. KENNEDY: Every honourable member should vote according to his conscience and stand up for the principles of human dignity, in order to protect our children and our children's children.

The Hon. M. F. WILLIS [10.14]: Despite the jocularity that has entered the debate in the past half an hour or so, I consider this bill to be a serious measure. In many ways I regret the form in which it has been presented to the House by the Hon. B. J. Unsworth. It has created a controversy whether this method or the method espoused by the honourable member for Illawarra in the other place is the better way of dealing with this issue in our society. In some ways one might be forgiven for thinking that the Hon. B. J. Unsworth has mounted what in military parlance is known as a pre-emptive strike. I am sure that those who support the Petersen method of dealing with this issue would regard it in that light. The essence of the Petersen approach is to remove completely from the statute book the crime of buggery, whereas the Unsworth approach seeks to re-enact buggery as a crime and then provide certain exceptions so that though buggery has been committed, it shall not be deemed to be a crime. I as a lawyer regard the Unsworth method of legalization by exception as repugnant. I believe that something is either a crime or it is not.

The Hon. D. P. Landa: There are plenty of other such examples on the statute book.

The Hon. M. F. WILLIS: The House has had enough of the Minister's interventions since he came into the Chamber. Perhaps he will be kind enough to allow the debate to return to a modicum of decorum. I am fundamentally opposed to legalization by exception in any sphere of legislation. My initial reaction to this bill was to oppose it on those grounds which, I admit, are somewhat purist and jurisprudential.

The two best contributions in this debate, in my view, were those made by the Hon. P. J. Baldwin, who in pure logic presented the best speech on this issue—it is not often an arch conservative like myself is in sympathy with the Hon. P. J. Baldwin—and the Hon. Elisabeth Kirkby. Clearly, the Hon. Elisabeth Kirkby put to

rest some of the more alarmist views as to the consequences of this measure if passed into law. From my personal point of view I would prefer to see the matter dealt with by decriminalizing buggery *simpliciter* and then legislating to protect those people in our society, such as children and people under a certain age, from that kind of act, by specific enactment. I am inclined to the view of John Stuart Mill that it is not the province of the legislature to legislate on morals. At the same time I accept that in our society today there is an attitude that regards the act of buggery as contrary to the mores of our society.

There are many aspects of the bill in the form in which it has been presented—apart from the fact that it is legislation by exception—which I regard as repugnant. Indeed, if the bill reaches its Committee stage, I shall have more to say on that topic. One problem is how one shall define what is to be regarded as being in private. Another relates to the nonsense of the aspect of participation by more than two parties. A further difficulty arises over the provisions regarding exceptions—that is, where consent is deemed to have been given in certain circumstances by people who are under eighteen.. I regard that aspect also as a nonsense. I have given a few examples of ways in which the bill is deficient.

In summary, the attitudes on this bill seem to fall into certain clear categories. There are those among us—I sincerely respect their views since they are people for whom I have high regard—such as Reverend the Hon. F. J. Nile, the Hon. N. M. Orr and the Hon. J. W. Kennedy, who seem to express one end of the spectrum of opinion, which is that if by any element of legislation the Parliament appears to give condonation to the act of buggery, certain other deleterious effects will follow in our community.

That is a view to which I am not willing to subscribe because there is no evidence of it either in this society or any other societies. Frequently people quote the example of the decline of the Roman Empire when libertarian views on morals were rampant. That is to presuppose—and this is where the argument fails—that they were the only reasons and not the symptoms why that great civilization decayed.

The other view expressed by the Hon. P. J. Baldwin is the one with which I commenced my remarks. It is that a crime is a crime is a crime and there should not be exceptions—in effect, that homosexuality should either be decriminalized or the law left as it is. The middle road is the one sought by the Hon. B. J. Unsworth. It seeks to combine two things that are in many ways logically inconsistent. First, it seeks to enshrine again in legislation the moral repugnance of the Judeo-Christian ethic against the act of buggery and then to say that if it is performed in certain circumstances, it shall not be regarded as a crime.

I understand that the Hon. B. J. Unsworth is seeking to pursue a middle course. I am willing to concede that he is genuine in his intentions, that he is seeking to solve a social problem and to accede to what is probably the general attitude of the mores of our society, which is against the act of buggery *simpliciter,*

I have tried to draw together the strands of this debate. Essentially, there are only those three approaches. Originally I was against this bill. There are certain elements of the bill that I oppose and in respect of which I shall move amendments in Committee. If the bill returns from another place unchanged in those respects I shall then move further amendments. I have come to the view that the demands—or what might be termed the militant attitude within the gay society—must at this stage be compromised with what is probably the generally accepted mores of our society. For those reasons I shall not oppose the second reading of this bill, subject to my comment that it needs significant amendment in Committee.

The Hon. D. P. LANDA (Minister for Energy, Minister for Water Resources and Vice-President of the Executive Council) [10.23]: Like many members, I saw this debate as one that did not warrant necessarily each and every honourable member addressing the House, notwithstanding that each of us has a view that we are entitled to express, within our own party rules or within the dictates of our own conscience. As the debate proceeded and more honourable members felt constrained to express their views and to establish clearly their position on this bill it became clear that this is essentially an issue involving individual human rights. As issues of this kind do not come before the Parliament frequently, a succession of honourable members who contributed to the debate, originally did not intend to take part in it. I fall into that category unashamedly.

Having listened in this Chamber and in my room to the greater portion of the debate, I must say that the Hon. M. F. Willis has encapsulated excellently the three streams of argument. I do not often agree with the honourable member's arguments. However, without being patronizing, to him I must say that his contribution to this debate has been one of the best he has made in this Chamber. When the honourable member reads *Hansard* he may share that view.

I speak as a member of the House and not as a Minister of the Government. I speak also as a member exercising the right to which I referred earlier. My view is fundamentally in line with the measures proposed in the Petersen bill, as moved in the other place. I share the sentiments of the Hon. Elisabeth Kirkby when she said that eventually this society will experience what has occurred in most western societies and which now—in terms of the repression of individual rights of homosexuals—applies only in the most authoritarian of regimes. It would be clear to any person who has heard this debate or the debate in the other place that in New South Wales in 1982 no significant move will be made in one step. It will take more than one step—I suggest probably only one other step after the passage of this bill—hopefully, in the fullness of time. That has been recognized by the Hon. P. J. Baldwin. I hope that opinion will merit some reconsideration by the Hon. Elisabeth Kirkby, who holds her view from a position of principle that is pristine in its purity.

The table brought into this Chamber by the Hon. J. W. Kennedy shows that, despite the sentiments expressed in this debate and the sense of tolerance that might be expressed by individual members of this House towards homosexuals in the community, some homosexuals do go to prison. That is confirmed by statistics. I have no reason to doubt that, even today in one form or another, the threat of imprisonment—or actual imprisonment—occurs. One is not asked to approve or disapprove of homosexual behaviour. One is not asked to express an opinion on sin or on the pureness of one's soul and spirit. One is asked whether one is of the view that the State—by the use of the criminal courts—has a place in the determination of people's sexuality and their behaviour, except in the protection of minors and the prevention of assault or acts without consent in the full sense of the legal definition.

Much as one may have a personal view on any of the theological, moral or philosophical aspects, the question is not one of sin or of mores, but of crime. Whatever one's views may be, the subject under discussion does not have a place in the criminal courts or in the prisons of New South Wales. Despite the reservations that I have about the bill and the assurance that it will ultimately be the subject of further review, I consider it proper to remove the suggestion of a crime and the threat of imprisonment against homosexuals. It is presumptuous for others to suggest that someone could be a martyr by being criminally convicted so that in the fullness of time complete reform may be achieved. I, for one, could not leave this House if I considered that I had been

a party to a delay of years in respect of this reform and that in the intervening period some person or persons would be imprisoned or threatened with that prospect. In that spirit honourable members should cast their vote on the bill.

The Hon. B. J. UNSWORTH [10.32], in reply: I thank all honourable members who have spoken in the debate, regardless of whether they have been for or against the provisions contained in the bill. The presentation of the bill has been an interesting exercise in this Chamber, and that fact has not gone unnoticed. This is one of the few occasions on which this Chamber has initiated a legislative proposal. As I stated in my second reading speech, that was brought about as a result of the failure of the Legislative Assembly to deal effectively with the two proposals that came before it. I thank particularly those honourable members on both sides of the Chamber who expressed their support for the bill, notwithstanding the various reservations that they had.

I shall deal with a number of points raised by those honourable members who express their opposition to the bill. During the debate there have been moments of farce and other moments of affected drama. One of the problems of dealing with an emotive issue such as this is that frequently honourable members are induced to avoid facing the specific proposals put forward in amending legislation, and they do so by referring back to the principal Act that is sought to be amended. When I spoke on the bill initially, I requested honourable members to consider the proposal as it had been presented rather than seek support from quotations I considered to be unhelpful. Honourable members have observed some of the horrific material presented by the Hon. N. M. Orr, listened to quotations from the Pope, presented by the Reverend the Hon. F. J. Nile, and to various references from religious and community leaders expressing either opposition or support for the sentiment incorporated in the bill. Having said that, I shall refer honourable members to the specific provisions of the Crimes Act that I am seeking to have amended. Section 79 of that Act states:

> Whosoever commits the abominable crime of buggery, or bestiality, with mankind, or with any animal, shall be liable to penal servitude for fourteen years.

The House is being asked to consider that section. Those honourable members who have expressed opposition to the amending legislation have been subjected to frequent interjections asking whether those who were suggesting seriously that persons who commit homosexual offences that would constitute the act of buggery should be committed to prison for up to fourteen years. If that be the suggestion, from my understanding of conditions in prison, that would be the last place that one would seek to commit persons for the commission of that offence—that is, if it is an offence.

As has been stated, having regard to the circumstances that have confronted other legislatures in Australia, and indeed throughout the world, it is time that we determined whether that approach is to be preserved. Like the Minister, I do not often agree with the Hon. M. F. Willis. I had taken the objective view that the honourable member had taken an intense dislike to me, continuing his apparent vendetta against one of my colleagues, and a former member of this House, the Hon. J. P. Ducker. Nevertheless, I am indebted to the Hon. M. F. Willis for his succinct summing up of the debate.

A number of people have endeavoured to ascertain my motive in bringing forward this private member's bill. The Hon. M. F. Willis has identified this motive. I have sought to find a middle course, a course of legislative action that is acceptable to the majority of members of this Parliament, and in particular of this Chamber. As I have said to my colleagues, it is quite academic that legislation may be enacted in the lower House if majority support cannot be gained for it in the Legislative Council. Given the circumstances of the recent abortive attempts in another place to amend the

Crimes Act, the time is appropriate to ascertain the views of honourable members of this Chamber on the question. I deliberately chose a middle course, as it was described by the Hon. M. F. Willis. I well understand the views of the Hon. Elisabeth Kirkby, the Hon. P. J. Baldwin and so many others who have adopted what they consider to be the proper view on sexuality. Politics is the art of the possible. There is no point in bringing before this House or any other legislature proposals that have no possibility of majority support.

I have found that drafting a bill is not the easiest of tasks. My first draft of the bill would have provided that, if one could find an 18-year-old animal which consented, the act of bestiality would not be an offence. Having achieved that legislative feat, I thought I should seek better advice, and I did. I discovered that members of Parliament do not have immediate access to the Parliamentary Counsel. I had to write to the Premier and Minister for Mineral Resources to gain his approval before I could approach the Parliamentary Counsel for his assistance in drafting a private member's bill. I am indebted to Mr Dennis Murphy, the Assistant Parliamentary Counsel, for the many hours he spent assisting me to draft a bill along the lines that I suggested. To members, including the Hon. P. S. M. Philips, who brush aside the drafting process, my suggestion is that they should try it themselves. It is an exacting procedure.

After one decided that section 79 of the Crimes Act should be amended, one then had to decide which proposal to follow. Clearly the Petersen objective of gender neutrality was tried in the Legislative Assembly and by no stretch of the imagination met with support. If one accepts and recognizes that fact, notwithstanding the pseudo-scientific views that have been put forward by those who were called upon by the Hon. Elisabeth Kirkby for support—the views of gay liberation, gay Anglicans, gay Catholics, gay stockbrokers if there be any, or gay dentists—the only legislative proposal that I believe will secure majority support in this House or in the Legislative Assembly is one that maintains a clear indication that there is a community view on the act of buggery. It was for that reason that the bill had to be drafted in its present form.

As a lawyer the Hon. M. F. Willis finds it objectionable that proposed section 81BA would provide that in certain circumstances the commission of the act is not an offence. In my view that was the only procedure I could follow to maintain the implied sanction and to provide circumstances whereby people who consented, were adults, and went about their business in private, could not be subject to prosecution and possible incarceration. I make no apology for that. I make no apology to the Hon. Elisabeth Kirkby, who has said she will vote against the measure. I suggest that if the honourable member seriously believes what she said in this House, she should consider practical political realities. Anyone who wants homosexuals to be freed from the fear of blackmail, prosecution, being dragged through the courts and possibly placed in prison, should think seriously about whether they will vote against the measure.

I recognize the problem that confronts Reverend the Hon. F. J. Nile. I appreciate the fact that he respects my view. He said he was concerned that I had given credibility to the proposal. That is one way of looking at the matter. I do not necessarily see it in that light. Something had to be done, if one were genuinely concerned about people who for whatever motive had developed, adopted or practised homosexual activity. If one were concerned about them as individuals, one had to try to distinguish sin from crime. In this debate I have spoken about sin. Dean Shilton told me of a group called Angays who were active in the Synod. If such homosexuals have a Christian belief, they must reconcile their problems in their conscience and with their maker. A similar comment applies to the Catholic gay group from whom I received correspondence recently.

I asked the Hon. J. C. J. Matthews the date of the letter he received because so many people have made assumptions about the contents of the bill and quickly moved to indicate opposition to it that I think they have failed to examine my motives or the result of any successful passage of the measure. I am pleased that this exercise did not continue over any lengthy period, for in the past two or three days since people have been aware of the imminence of the proposal I have received a number of letters and telegrams. None of that correspondence has been congratulatory. I have not received one telegram or letter approving of what I sought to do. I have received only criticism from what I term the radical, militant, gay organizations. If 10 per cent of the community has that sexual preference, I hope those from whom I received correspondence do not represent that 10 per cent.

I have received substantial criticism from people who profess to have a religious view and have advised me of sections of the Bible to which I should refer for guidance. I shall say something about my motives that might assist the Hon. M. F. Willis further. Certainly I have not introduced the measure to gain any popularity. Neither have I done it to secure any electoral advantage in any election that I might contemplate contesting. Clearly there are no votes in homosexual law reform. I could speak about all the nonsenses that have been raised in this debate. I might even ask the Hon. F. M. MacDiarmid which Woolworths store he visited, for I am intrigued by what he said on that point. It is sufficient for me to deal with the issues that have been raised and have exercised the concern of honourable members, and so reduce the time that might otherwise be spent at the Committee stage of this measure. The Hon. J. W. Kennedy was concerned about the relationship between the Crimes (Sexual Assault) Act, and the Crimes (Homosexual Behaviour) Bill. I refer the honourable member to item (9) (2) (b) of the bill which is identical with the clause to which the honourable member referred. That item was incorporated to ensure that the element of consent provided for in the bill is not a consent obtained by threat. The fact that a person did not offer physical resistance cannot be accepted as consent.

The Hon. P. S. M. Philips expressed some concern about the provision relating to a public place. That phrase is defined in section 8 of the Crimes Act. The bill provides that an act is committed otherwise than in private if it is committed in a public place. An additional provision incorporated in the bill proposes to indicate clearly that a lavatory is not a public place, which is a provision of the English Sexual Offences Act, as is the proposal which the Hon. M. F. Willis found difficulty with, that is, the provision in regard to more than two persons.

The other matter that the Hon. M. F. Willis raised is the issue of mistaken age, which is covered in the carnal knowledge provisions of the Crimes (Sexual Offences) Bill. Every provision in the bill I have presented can be justified, for each of them is to be found in another statute or in the sexual offences provisions of the Crimes Act.

Because of the lateness of the hour, and the need to deal in detail with the bill in Committee should it reach there, I shall not proceed further with my reply to the second reading debate. Honourable members should consider seriously the implications of their vote, particularly those that would flow from a rejection of the bill. I direct that remark to the members who profess to be foremost in the field of homosexual law reform. I commend the bill to the House.

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

The House divided.

Ayes, 25

Mrs Arena	Mr Holt	Mr Turner
Mr Brenner	Mrs Isaksen	Mr Unsworth
Mr Burton	Mr Kaldis	Mr Vaughan
Mr Dyer	Mr King	Mr Watkins
Mrs Fisher	Mrs Kite	Mr Willis
Mr French	Mr Landa	
Mr Garland	Mr Philips	*Tellers,*
Mrs Grusovin	Mr Pickering	Mr Baldwin
Mr Hallam	Mr Thompson	Mrs Chadwick

Noes, 15

Mr Calabro	Ms Kirkby	Mr Smith
Mr Doohan	Mr Matthews	
Mr Duncan	Mr Morris	
Mr Healey	Rev. F. J. Nile	*Tellers,*
Mr Kennedy	Mr Orr	Mr MacDiarmid
Mr Killen	Mr Sandwith	Mr Reed

Question so resolved in the affirmative.

Motion agreed to.

Bill read a second time.

In Committee

Clause 4

[Transitional provision.]

Reverend the Hon. F. J. NILE [11.2]: Mr Chairman, may I make a contribution?

The CHAIRMAN: Is the honourable member opposing the clause?

Reverend the Hon. F. J. NILE: I wish to insert something after clause 4.

The CHAIRMAN: Is it an amendment to the clause?

Reverend the Hon. F. J. NILE: No, it is a new clause 5. I wish to ask your advice on whether it should be a new clause 5 or whether it will be an amendment to section 14 of the Crimes Act. I wish to move an amendment to the interpretations provision.

The CHAIRMAN: It will have to be a new clause and it must be submitted in writing to the table.

Reverend the Hon. F. J. NILE: May I read it?

The CHAIRMAN: Submit it to the Clerks please. I have read the proposed amendment submitted by the Reverend the Hon. F. J. Nile. I rule that, as it is not couched in correct terms, it is not an acceptable amendment.

Order! To suit the convenience of honouable members I propose to put schedule 1 item by item so that they may debate them singly. Is there any objection to my doing that? As there is no objection, I shall proceed accordingly.

Clause agreed to.

Schedule 1

Item (4)

Reverend the Hon. F. J. NILE [11.3]: I move:

That at page 3, line 18, after the word "commits" there be inserted the words "the abominable crime of".

I seek to add the words "the abominable crime of" on the ground that it is important to add that further descriptive definition to highlight the moral and social implications of the act.

The Hon. B. J. UNSWORTH [11.4]: I oppose the amendment. I gave serious consideration to the deletion of the word abominable. The crime of buggery has been alternatively called sodomy. Whether one adds the adjective abominable or not will not change the act. It does not alter my opinion or that of the community on the commission of the act.

Amendment negatived.

Item agreed to.

Item (7)

The Hon. M. F. WILLIS [11.8]: I move:

That at page 4, lines 21 to 23, the word "male" be omitted wherever occurring.

I invite the attention of the Committee to the fact that proposed section 81A refers only to acts of gross indecency by male persons. That seems to presuppose that males are the only persons capable of committting acts of gross indecency. That is a nonsense. Therefore, I propose that the word male appearing on the lines I have mentioned be deleted. The proposed section would then read "Any person who in public . . . commits . . . an act of gross indecency with another person".

The Hon. B. J. UNSWORTH [11.9]: This is a substantial amendment to the existing provisions of section 81A of the Crimes Act, which refers specifically to acts committed by male persons with other male persons. In seeking to amend that provision I have specified that the acts must be acts that take place in public. Section 81A provides:

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

Having listened to those provisions if the Hon. M. F. Willis considers the effect of the proposed amendment, he will recognize that references to outrages on decency committed in private have been deleted. To endeavour to clarify what the courts should determine is an outrage on decency, the word gross has been incorporated in the amendment to make it clear that the acts must be acts of gross indecency.

I have examined the legal aspects of this matter. Courts have interpreted the acts referred to in section 81A of the Crimes Act as being acts of gross indecency. In my second reading speech I stated clearly that my opinion was that dancing, kissing or caressing by men in public would constitute an offence within the provisions of the Crimes Act. Public masturbation, fellatio or buggery would constitute acts of gross

indecency or outrageous indecency and should be defined. Courts will interpret literally the provisions of the Act and will not be swayed by comments made in this debate. I note the point raised about the distinction between males and females.

As I said earlier, it has been put to me that the Offences in Public Places Act adequately covers acts of indecency in public. I do not consider that the Act provides adequate penalties to discourage acts of gross indecency. Though women may perform acts of gross indecency with other women, the effect of the amendment moved by the Hon. M. F. Willis would be that acts of gross indecency performed by women with men or between two women could be the subject of charges. The law should not be extended to cover such acts. The existing law provides for offences committed by a male person with another male person. I have sought to define the provisions of the relevant section. For those reasons I cannot accept the amendment.

Reverend the Hon. F. J. NILE [11.12]: The Hon. M. F. Willis referred to line 22, but did not cover the amendment I seek to move. I move that the original words contained in the Act be reinserted.

The CHAIRMAN: Order! If the honourable member waits until the Committee has dealt with the previous amendment, he may move his amendment.

Amendment negatived.

Reverend the Hon. F. J. NILE [11.13]: I consider that for clarity the original words contained in the Crimes Act "indecent assault with or upon" should be reinserted in line 22. Section 5 of the Offences in Public Places Act contains the words ". . . seriously alarmed or seriously affronted . . ." but the people of New South Wales will not accept those words as adequately dealing with the matter.

The CHAIRMAN: Order! Will the honourable member clarify his amendment?

Reverend the Hon. F. J. NILE: I move:

> That at page 4, line 22, the words "of gross indecency with" be omitted and there be inserted in lieu thereof the words "indecent assault with or upon".

The CHAIRMAN: Order! In future if the honourable member proposes to move an amendment, he should submit a copy of it to the Clerk before the House goes into Committee. The procedures of the Committee would not be impeded if that were done.

Reverend the Hon. F. J. NILE [11.14]: I am using the exact wording of an Act. Those words are essential to the bill. Despite the good intentions of the Hon. B. J. Unsworth, ordinary people will not accept public kissing or fondling by males. The words "gross indecency" will restrict courts in the interpretation of acts that constitutes indecent assault.

The Hon. B. J. UNSWORTH [11.15]: I oppose the amendment. For the reasons I have put forward, acts of gross indecency should be defined clearly in the bill for courts to interpret. In proposing the amendment, the honourable member expressed his view about public displays of affection by male persons. Under the provision of the Offences in Public Places Act, courts may determine that charges should be laid arising from such acts, and that such conduct constitutes an offence

if a person was seriously alarmed or seriously affronted. All honourable members would be alarmed and affronted if kissed by a male in a public place and would proceed to lay charges. No doubt courts would take a serious view of such conduct. The bill proposes to delete section 81 of the Crimes Act, which deals with indecent assaults. Those offences and assaults may be effectively dealt with under the provisions of section 61E of the Crimes (Sexual Assault) Amendment Act. For those reasons I oppose the amendment.

Amendment negatived.

Item agreed to.

Item (9)

The Hon. M. F. WILLIS [11.20]: I move:

That at page 5, lines 14 and 15, the words "; or (ii) involved participation by more than 2 persons" be omitted.

For the benefit of members of the Committee it will be noted that it requires the participation of more than two persons to constitute an offence under section 79A or section 80. The essence of the matter is that the offence of buggery, if committed by more than two people who are consenting, in private and are over 18, is still an offence. It would seem to be illogical nonsense to prescribe by law the number of people who may not, in the presence of each other, participate in the act of buggery.

To my knowledge there is no law in the land which prescribes how many people may or not be present, except for the physical necessity of two in heterosexual intercourse. Therefore I fail to see any good reason why, in this case, which is in effect legalizing such an act between two males, it should be further prescribed by saying that only two may be present and it becomes a crime if, either by chance or by intention, there happens to be more than two.

The Hon. ELISABETH KIRKBY [11.22]: Mr Chairman, I wish to move an amendment to page 5 in respect of lines 13 and 14, which read:

(c) the act constituting the alleged offence—

(i) was committed otherwise than in private;

I should like those words deleted as there is ample provision to cover those circumstances under the Offences in Public Places Act.

The CHAIRMAN: Order! Members should make themselves familiar with the standing orders of the House. I direct attention to Standing Order 116, which provides clearly that an amendment to any motion before the House must, if required, by the Chair, be in writing. For many years the Chair has required amendments to be put in writing and handed to the Clerks to facilitate consideration of legislation in Committee. If members move amendments without prior notification, the passage of legislation is impeded. It is imperative that the Chairman know precisely the order in which amendments are to be proposed.

The Hon. R. B. ROWLAND SMITH (Deputy Leader of the Opposition) [11.23]: This afternoon I spoke about how, in this Parliament, bills are being brought forward without adequate time for members to consider them properly before debate begins. This bill was given to members for the first time just prior to lunch. I understand everything you have said, Mr Chairman. It has always been practice that an amendment should be in writing. But when we must consider such legislation as this, and when members must listen to what is taking place without having had the

opportunity to study the proposals, they find difficulty in formulating amendments sufficiently early to put them in writing. I would suggest to the Government through you, Mr Chairman, that members should be given more time to contemplate proposed legislation of this sort.

The CHAIRMAN: Order! The comments of the Deputy Leader of the Opposition have been noted. I require that the standing orders of the House be adhered to. Proposed amendments must be submitted in writing to the Clerks at the table so that they may be brought to the attention of the Chairman.

The Hon. ELISABETH KIRKBY [11.25]: Mr Chairman, will you accept my amendment, if it is written out now?

The CHAIRMAN: I have it now. The Clerks have reduced it to writing. I ask the Hon. Elisabeth Kirkby to approach the table and make use of the public address system so that other members might have an opportunity of hearing what she has to say. Some members have been unable to hear her. I shall deal first with the amendment proposed by the Hon. Elisabeth Kirkby.

The Hon. ELISABETH KIRKBY [11.26]: I request that the words "was committed otherwise than in private" appearing in line 14 on page 5 of the bill be omitted. My reason for seeking that amendment is that there is ample provision for this under the Offences in Public Places Act. That is why I believe it is unnecessary to have those words incorporated in this bill.

The Hon. B. J. UNSWORTH [11.26]: I cannot accept the amendment. The central thrust of the proposition I have advanced is that this bill provides for decriminalization of homosexual activity involving consenting adults in private. The meaning of the words in private, where they appear in the short title of the bill, is quite clear in my mind. It is absolute nonsense for the Hon. Elisabeth Kirkby to suggest that the Offences in Public Places Act adequately covers what is proposed in this bill. I suggest the honourable member should spend some time studying the Offences in Public Places Act. In my second reading speech I told the House that I had served on the monitoring committee established by the Attorney-General, Minister of Justice and Minister for Aboriginal Affairs to examine the operation of that Act. It is my firmly held opinion—I have expressed it previously and it would appear in the minutes of that committee—that the penalties provided under that Act are inadequate for some offences reported as having been committed in public places. For those reasons I oppose the amendment.

The Hon. J. W. Kennedy: Honourable members should have had more time to consider the bill.

The Hon. B. J. UNSWORTH: On Tuesday I distributed the bill to members of the Opposition in this House.

The CHAIRMAN: Order! Honourable members will address the Chair and desist from interjecting. I ask the Hon. Elisabeth Kirkby whether her proposed amendment relating to schedule 1 is:

That at page 5, all words on line 14 be omitted.

Is that the amendment proposed by the honourable member?

The Hon. Elisabeth Kirkby: Yes.

Amendment negatived.

The Hon. M. F. WILLIS [11.29]: I remind the Committee that before the Hon. Elisabeth Kirkby's amendment was dealt with I had moved:

That at page 5, lines 14 and 15, the words "; or (ii) involved participation by more than 2 persons" be omitted.

My reasons for seeking this amendment were given earlier. As the bill stands, in private and consenting buggery, if there are present more than two persons who are over 18, it is still a crime. As I understand the law, that would not be the case in relation to a heterosexual act. If that be so, it is illogical nonsense to make that act an offence.

The Hon. B. J. UNSWORTH [11.29]: This proviso was incorporated by me in the bill bearing in mind the provisions of the English legislation. I know this matter has concerned a number of people. I do not regard sexual acts involving more than two people as being normal sexual activity, no matter whether they are committed by homosexuals or heterosexuals. On moral grounds I do not believe such activity should be encouraged. However, I recognize that in this legislation we are endeavouring to draw the line between what is a crime and what is a sin. For those reasons I accept the amendment.

Amendment agreed to.

The Hon. P. S. M. PHILIPS [11.31]: I move:

That at page 6, all words on lines 3 to 13 be omitted.

As I said earlier, a person aged 18—particularly a male person—is deemed to have knowledge of the world and to be able to make an informed judgment. At a lesser age this is not possible so the youth of this State must be protected. I refer to the situation at Kings Cross in particular, where some 14-year-old, 15-year-old and 16-year-old boys go to engage in sexual activity with older males, primarily to get a roof over their heads, not because they understand fully the nature of the act that they are committing. Incidentally, some criticism can be levelled at the Government in this regard for not providing adequate refuges to help those runaway children. I rely on what I regard as the best possible information and advice about the present problems affecting boys of the ages I mentioned particularly in the Kings Cross area, and on further advice that to agree to these clauses would exacerbate the problem.

The Hon. M. F. WILLIS [11.33]: I support the amendment moved by the Hon. P. S. M. Philips. I remind the Committee that one of the things that caused the greatest concern about the Petersen bill when it came before another place was that it dealt with persons below the age of 18 years. I fully appreciate that the essence of the provision here is that a person who is the subject of an act of this nature, who is under the age of 18 but appears to be over the age of 18, who consents to the act and who the committer of the act has reasonable grounds to believe is over the age of 18, notwithstanding that he is under the age of 18 he shall be deemed to be over the age of 18 and therefore the act is not illegal. This same provision, as I understand it, applies in the case of carnal knowledge of a girl under a certain age.

I fully understand the reasons for the inclusion of this clause; it seeks to give the benefit of the doubt, so to speak, and avoid a conviction, where the act has been unknowingly with consent and with reasonable excuse, and the subject was believed to be over the age. I understand the reasons but I draw to the attention of the Committee that one of the fundamental reasons for the Petersen measure in another place foundering on a previous occasion was that an overwhelming majority of members in that place were not willing to accede to a situation where a male person between 16 and 18 could legally be a participant in these acts. Whether one believes

that this escape clause should be in the bill or not, that is the attitude of the community and we in this House have some responsibility to reflect what we regard as that attitude.

The Hon. W. J. HOLT [11.36]: Basically I agree with what has been said by the Hon. M. F. Willis. I must say, however, that earlier this evening I quoted the Canberra ordinance which contains this very escape clause—clause 4 of the Canberra ordinance—that the consent of a person who has not attained the age of 16 is not effective to permit its use, the consent of a person who has attained the age of 16 but has not attained the age of 18 is not effective for the purpose of that ordinance, unless the defendant proves that he had reasonable grounds for believing and did believe, that the person had attained the age of 18 years. That really is the same as the provision in question. That provision has not been amended since 1976. All honourable members have been told that it is working satisfactorily in Canberra and nobody in this House seems to have said anything to the contrary.

I confess that I have an open mind on this matter. But one thing that weighs upon my mind is that having appeared in a number of cases involving the liquor laws over the years I have noticed this issue turning up all the time, when one is defending a person who has served liquor to somebody who is under the age of 18—whether they might reasonably have thought that they were over the age of 18. The circumstances of those cases are often like those being discussed here. The person charged comes into one's chambers and says that the person he served had long hair and was with four or five other people, and he thought the person looked 21 or 22. When the person who was served is all dressed up in his school clothes with his hair cut and his shoes cleaned and neat, as in the walrus and the carpenter, he looks as though he is about 14, with an ice cream in his hand. If any prosecutor wants to make a 17-year-old or a 17½-year-old child look about 14½, it is only a question of applying a certain amount of theatrical cosmetics, if I may put it that way. I take the point of the Hon. M. F. Willis and the Hon. P. S. M. Philips about this matter, but I am not utterly convinced that it is quite as important as it would appear to be at first sight.

The Hon. P. S. M. PHILIPS [11.39]: With the greatest of respect to the Hon. W. J. Holt, and accepting that lawyers have a commendable wish for uniformity and conformity where possible, I cannot see the relevance of how this matter was drafted in Canberra to the way it should be drafted here. The evidence upon which I rely relates to Sydney, as I have explained, and with the greatest of respect to my colleague and to those who wish for uniformity, I suggest on this occasion that the problem is here and the Act should acknowledge it.

The Hon. B. J. UNSWORTH [11.40]: I make it perfectly clear that it is not my intention, either by subterfuge or any other means, to introduce a proposal which would lower the age from 18 years to 16 years, and I hope honourable members appreciate that. In the drafting discussions that I have undertaken I have been made aware of the problem about defining specifically the age of 18 years, for a person may be one day under the age of 18 and another one day over the age of 18. How can it be established that those two persons are two days apart in terms of age? That aspect worries me. I do not wish to see a loophole introduced that will give cause for further proliferation of acts of child prostitution in this respect. It is my belief that there are other legislative remedies to resolve that question. The Child Welfare Act incorporate provisions which ensure that minors are protected.

I have pointed out previously that in the drafting stages I had lengthy discussions as to whether the age should be 14 to 18 or 16 to 18. After much consideration and consultation with my wife, I came to the conclusion that boys aged 14 were more sexually immature than girls and, therefore, the age of 14, which is incorporated in the

carnal knowledge provision of the Act as it relates to girls, was not appropriate in those circumstances. I took the view that this should lie only as a defence in certain circumstances, and the defence would lie only if the accused had reasonable cause to believe, and did in fact believe—and, further, was able to prove that he had cause to believe or did in fact believe—that the person had attained the age of 18.

I respect the point made by the Hon. P. S. M. Philips and the Hon. M. F. Willis and I have given it a lot of consideration. I am concerned also to avoid a situation which leads to further blackmail or entrapment where a male has a liaison with a person who holds himself out to be 18 and then discovers immediately afterwards that the person is 17, and that person indicates that an offence has occurred. That situation could lead to the person who would be accused being placed in a compromising situation and being blackmailed. For those reasons, after serious consideration, I believe I must remain with the proposals in the bill. With respect, I reject the amendment.

Question—That the words stand—put.

The Committee divided.

Ayes, 22

Mr Baldwin	Mr Holt	Mr Turner
Mr Brenner	Mrs Isaksen	Mr Unsworth
Mr Burton	Mr Kaldis	Mr Vaughan
Mr Dyer	Mr King	Mr Watkins
Mrs Fisher	Ms Kirkby	
Mr French	Mrs Kite	*Tellers,*
Mr Garland	Mr Reed	Mrs Arena
Mr Hallam	Mr Thompson	Mrs Grusovin

Noes, 14

Mrs Chadwick	Mr MacDiarmid	Mr Smith
Mr Doohan	Mr Matthews	Mr Willis
Mr Duncan	Rev. F. J. Nile	*Tellers,*
Mr Kennedy	Mr Orr	Mr Philips
Mr Killen	Mr Sandwith	Mr Pickering

Question resolved in the affirmative.

Amendment negatived.

The Hon. ELISABETH KIRKBY [11.50]: I move:

That at page 6, all words on lines 15 to 20 be omitted.

The point dealt with in subsection (4) (a) of proposed new section 81BA is amply covered by the Offences in Public Places Act.

The Hon. B. J. UNSWORTH [11.51]: I cannot accept the amendment for the reasons that I gave when I spoke to the earlier amendment moved by the honourable member.

Amendment negatived.

The Hon. M. F. WILLIS [11.52]: I move:

That at page 6, all words on lines 20 to 22 be omitted.

The proposed amendment is consequential upon the amendment made to subparagraph (ii) of paragraph (c) of proposed new section 81BA (1).

Reverend the Hon. F. J. NILE [11.53]: I wish to indicate my opposition to the proposed amendment. The Hon. M. F. Willis may not be well informed on this matter. Perhaps I should spend a little of the time of honourable members explaining the bath house racket in San Francisco. To a small degree that racket has started in Australia. Therefore, the type of protection envisaged is important and indeed is a necessity.

The Hon. B. J. UNSWORTH [11.54]: For the purposes of consistency, I shall agree to the amendment. I follow the point made by Reverend the Hon. F. J. Nile. I should be appalled if developments along the lines of the San Francisco experience were repeated in Australia. I was in San Francisco on the night that one of the bath houses caught fire. The firemen were concerned about what might happen to people who were chained up in those establishments. I am aware of a number of establishments that have developed in Sydney in order to satisfy the requirements of homosexuals who gather in those places. If by accepting this amendment we lay the community open to that form of undesirable activity, we may well have to give further consideration to the matter. I take the honourable member's point, that he seeks to differentiate between homosexual and heterosexual activities. For these reasons I agree to the amendment.

Amendment agreed to.

Amendment (by the Hon. M. F. Willis) agreed to:

That at page 6, line 16, there be inserted after the word "place" the word "or".

Item as amended agreed to.

Schedule as amended agreed to.

Adoption of Report

Bill reported from Committee with amendments, and report adopted, on motions by the Hon. B. J. Unsworth.

SPECIAL ADJOURNMENT

Motion (by the Hon. J. R. Hallam) agreed to:

That this House at its rising today do adjourn until Tuesday, 16 March, 1982, at Four p.m., unless the President, or if the President be unable to act on account of illness or other cause, the Chairman of Committees shall, prior to that date, by communication addressed to each Member of the House, fix an earlier day and/or hour of meeting.

House adjourned, on motion by the Hon. J. R. Hallam, at 12.1 a.m., Friday.