

Mr Rob Johnson; Mr Martin Whitely; Mr Matt Birney; Speaker; Mr Mark McGowan; Mr Mike Board; Mr John Kobelke; Acting Speaker; Mrs Cheryl Edwardes; Mr Pandal; Ms Dianne Guise

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**ACTS AMENDMENT (LESBIAN AND GAY LAW REFORM) BILL 2001**

*Second Reading*

Resumed from an earlier stage of the sitting.

**MR JOHNSON** (Hillarys) [2.48 pm]: The member for Kingsley was the lead speaker for this side of the House and is handling this Bill. All members on this side of the House will be contributing to this debate; however, I am not sure how many members from the other sides of the House will be.

Mr McNee: Not many.

Mr JOHNSON: I hope that many will.

I reiterate one of the comments made by the member Kingsley with regard to splitting this Bill. I want to assure those people in the community who are gay or lesbian that I have no adverse feelings against them whatsoever. I would like to see them treated equally in many respects. I love people who are gay and lesbian as part of mankind. I say that in all seriousness. However, there is a small minority of those people with whom I cannot share that same feeling, and I refer to the people in the gay and lesbian community - a small percentage, I am sure - who are paedophiles and who prey on the young people of our community. I have no love, understanding or compassion for them. However, I have no adverse feelings for the vast majority of people who are gay or lesbian. I support them, and I support most of the clauses in this Bill because gays and lesbians should not be discriminated against. As the Attorney General said earlier by way of interjection, we discriminate against people on a daily basis. We do not necessarily discriminate against people who are gay or lesbian but against people who are of a different origin, or who are a different colour. We discriminate against people and sometimes we do not even know that we are discriminating against them. That is wrong, but there is not a lot we can do about that.

I have friends who are gay. The member for Riverton laughs, but it is not a laughing matter. They are gay, and they are nice, decent people. That they are gay is not a problem; I have known them for many years. They live a fruitful life and they enjoy their way of life. They do not impose their way of life on me, my family or my friends, and we accept each other as equals; and we are equals. I am a father of four children - two boys and two girls. If any of my children came to me and said that they are gay or lesbian, I would not love them any less. In fact, if it is possible, I would probably love them more because I believe that they would need the extra help and support that gay and lesbian people need. They need support, help and guidance, particularly when they are young. In that respect I want the gay and lesbian community in WA to know that I am not opposed to them in any way, shape or form. I have laboured that point because I feel passionately about other areas with which I have a fundamental basic difference of opinion with the Attorney General, the Premier and the Labor Government.

Mr Birney: Where is the Attorney General?

Mr JOHNSON: That is a good question. Given the significance of this legislation, I would have thought that the Attorney General would be in the House. I also think the Premier should be here because he heads this Government and this State, and it is his Government's social agenda that is being thrust upon the people of Western Australia, not only in parts of this Bill but also other Bills that have come before the House and that will come before the House in the future.

Mr Kobelke: Do not be so conceited as to believe that your contribution adds much to the debate. If your contribution to the debate follows along the lines of that of your lead speaker - she made a considered contribution - your contribution will get the respect and attention it deserves.

Mr JOHNSON: This is discrimination by the Leader of the House against a member on this side of the House. I am barely five minutes into a speech, which has so far been good and positive.

Mr Kucera interjected.

Mr JOHNSON: The Minister for Health reminds me of the policeman in Noddy's toy town who never solved a crime and had a lot of silly things to say.

A government member interjected.

Mr JOHNSON: If members opposite start on members on this side of the House, they will get it back. We will not sit back and take that rubbish. We have had to put up with rubbish from that side of the House for a long time.

This Government has no mandate to legislate in areas that are as extreme as this. I accept that part of the Government's pre-election policy was to tackle discrimination against gays and lesbians. However, the Labor

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Party stated that it would tackle that discrimination in the workplace, housing, superannuation and the like. This side of the House does not disagree with that.

[Quorum formed.]

Mr Birney: We didn't flush out the Attorney General.

Mr JOHNSON: No, we did not flush out the Attorney General. However, I am sure he is around somewhere.

I want to explain my feelings about the Bill now before the House. I have no objection to the bulk of the clauses in this Bill. However, the part of the Bill to which I totally object is lowering to 16 the age of consent for homosexual males. I have a total difference of opinion with the Government on that issue. I do not believe that males at 16 are mature enough - certainly my sons would not have been mature enough - to make the decisions that have to be made. Males of 18 years of age are getting close to the required level of maturity and at 21 there definitely is no problem.

I have an absolute abhorrence of the act of sodomy. The member for Swan Hills laughs. However, whether it be male-to-male or male-to-female sex, sodomy is against the order of nature. The member for Swan Hills may be in the swinging era, but I find it totally abhorrent. I will never understand how anybody could gain pleasure from doing it. I cannot understand it. I have different values -

Ms Radisich: You don't have to.

Mr JOHNSON: If a person does not get pleasure from it, why would he or she do it?

Mr Watson interjected.

Mr JOHNSON: I agree, it is sick. I absolutely agree with the member.

Mr Bowler: Do not misrepresent what the member for Albany said.

Mr JOHNSON: He should not interject.

*Points of Order*

Mr WHITELY: The member for Hillarys has totally misrepresented the comment made by the member for Albany.

Mr JOHNSON: Further to the point of order, the member for Albany made a comment by way of interjection and did not contribute to this debate. He simply made an interjection and I heard the word "sick".

Mr BIRNEY: I am interested to know to which standing order the member for Roleystone is referring?

The SPEAKER: There is no point of order. When we started this debate, I pointed out that members would disagree - perhaps vehemently - with other members' views. However, members will listen to those views.

*Debate Resumed*

Mr JOHNSON: This Bill has been brought before this House on the basis of the findings of a ministerial advisory committee comprising 15 people. Of those 15 committee members, 13 were either gay or lesbian. What kind of balanced report can we expect when the committee is so overloaded? We have been told that gay and lesbian people comprise between five and 10 per cent of the community.

Mr McNee: How many did you say?

Mr JOHNSON: Thirteen of the 15 committee members were homosexual or lesbian. How could we possibly get a balanced report? It is a one-sided report. The member for Girrawheen - who chaired the committee - openly admitted that she is not gay; she is one of the two people who were not gay. That is fine. However, I hardly think that her presence and that of the secretary balances the other 13 people who were either gay or lesbian. It is a bit like the Attorney General having a ministerial committee on prisons in which 13 of the 15 committee members who have to report on how prisoners should be treated are prisoners.

A member interjected.

Mr JOHNSON: For goodness sake!

Ms McHale: They are the best people to comment on it.

Mr JOHNSON: We are talking about a law for everyone - we are talking about antidiscrimination - not a law for only one group of people. We are also talking about legalising sexual acts that are against the order of nature.

The minister established this ministerial committee and he has accepted every recommendation in its report. That report is the basis of the legislation. We have already heard from the member for Kingsley that this

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legislation is flawed. It has been drafted hastily; it contains numerous mistakes and it will require extensive amendment. We know it will be passed by this House, because the Labor Party has the numbers. Not one member opposite has the courage to vote against it. Members opposite will not vote against even one clause because they are bound by caucus decisions. I know there are fathers and mothers opposite who do not agree with everything in this Bill.

Mr Kucera: What happened to your conscience vote?

Mr JOHNSON: Unlike members opposite, I vote according to my conscience at all times. They are bound by caucus decisions. They cannot present an honest response unless they check with Caucus first. That is the difference between this side of the House and the Treasury bench.

I am glad that my colleague the member for Kingsley has foreshadowed moving a referral motion between the second and third readings. This legislation has had no public input. The Government is frightened stiff of asking the community what it thinks about this Bill. It knows what 90 per cent of the community would say. They would probably agree with 90 per cent of it, but they would never agree with the fundamental clauses that the Attorney General is sneaking through. I have done extensive surveys over the past few years about this proposed legislation, and particularly in the past few months about this report. There is overwhelming objection to it.

Parents object to the Attorney General's intention to add homosexual education to the curriculum. He can try to backtrack. *The West Australian* gets things right and it -

Several members interjected.

Mr JOHNSON: It relies on comments.

Several members interjected.

Mr JOHNSON: The member is running down *The West Australian*. Its editorial headed "Don't politicise the curriculum" quoted the Attorney General as follows -

... the curriculum will be changed to include information on issues of young people who have same-sex attractions. He has set up a working party to look at how homosexuality can be incorporated into primary and high school curriculums.

He has no right to do that; he is not the Minister for Education. I wonder why the Minister for Education is not here today. He could not be reached for a comment yesterday. I wonder why. When anything controversial happens between two ministers, one goes missing.

Several members interjected.

Mr JOHNSON: We will wait for the member for Eyre's contribution. Does he intend to make a contribution? I bet he does not. I know him and I do not believe that he agrees with this legislation.

Several members interjected.

Mr JOHNSON: It is my time, my friend; I have every right to speak. I seek a 10-minute extension.

The SPEAKER: The extension is granted.

Several members interjected.

Mr JOHNSON: I am sure members are delighted. They will have to listen to me for an extra 10 minutes because of their interjections.

Mr Whitely: That is a punishment!

Mr JOHNSON: It is not a punishment.

Several members interjected.

Mr JOHNSON: The member should go outside and have a cup of tea.

The Premier, the Attorney General and the Labor Government as a whole will stand condemned for some of these clauses. It is all part of a Labor social agenda. The Premier is leading a Government that has forced on the community a measure that will result in the destruction of the institution of the family. He is also leading a Government that is soft on drugs. Everyone can now grow two cannabis plants. If a family has six members, they will be able to grow a dozen plants between them. That is great! The Premier would love to provide free heroin and he intends to legalise prostitution. The relevant Bill will be debated shortly. This legislation is the worst thing he has done. He is putting 13-year-old boys at risk. They will be vulnerable to paedophiles, older homosexual predators -

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Ms Radisich: What about older heterosexual predators?

Mr JOHNSON: I am also totally opposed to older heterosexual predators. I would dish out to them the same punishment I would dish out to homosexuals who prey on young boys. I say the same things about older men who prey on young girls. I am a firm believer in the family unit and looking after our young people.

This Bill contradicts the Bill that the Minister for Community Development introduced in this House a few weeks ago. The paramount theme of that legislation was the best interests of the child. Those interests will be forfeited under this legislation. Boys aged between 13 and 16 will be vulnerable to exploitation because the legislation provides a defence for the older predator.

We have already spoken about adoption, and the Attorney General has foreshadowed an amendment to the relevant clause. He has said that a clause will be inserted to require anyone wishing to adopt a child to show a desire and the ability to provide a suitable family environment.

Several members interjected.

Mr JOHNSON: Probably 95 per cent of people in Western Australia would say that two homosexual men would never be able to provide a suitable family environment for a child.

Ms McHale: That has to be assessed.

Mr JOHNSON: I am sorry, it does not. The minister should talk to members of the public. They are the best assessors. They will assess the Premier, the Attorney General and other members opposite at the next election. This legislation will certainly be raised during the next election campaign. The member for Cockburn is in a safe Labor seat. Members opposite could run a monkey wearing an ALP ribbon in his electorate, and the people would vote for it. Regardless of the voting system, members in marginal seats will have problems. The general public is sick to death of social engineering. I liken the actions of the Premier, the Attorney General and this Labor Government to what happened in Nazi Germany in the final days of the Second World War. The Nazi's social agenda was still a priority. Rome was burning around them, just like it is burning here now. Unemployment is increasing, we have a black hole in the budget and many businesses will go bankrupt over the next 12 months. What is this Government's priority? It wants to get this Bill through Parliament.

Ms Radisich: We can do more than one thing at a time.

Mr JOHNSON: What is this Government doing about unemployment? Nothing! What is it doing to help businesses? It is making the situation worse by imposing a tax.

Mr Logan: When did Rome burn during the Second World War?

Mr JOHNSON: I was speaking metaphorically. I was referring to the final days of the Second World War and the Nazis still being hell-bent on their social agenda of eliminating the Jewish race. Even in the last days of the war, the Nazis continued to do that. That was still their top priority. What I am saying to members opposite -

Mr McGowan: They were sending homosexuals to concentration camps to be executed.

Mr JOHNSON: No, the member for Rockingham should read a bit more.

Mr McGowan: That was an unusual analogy you made.

Mr JOHNSON: In relation to the adoption part of this Bill being a -

Mr Kobelke interjected.

Mr JOHNSON: No, I am not. Did the Leader of the House say that I was a neo-Nazi? Did he say that?

Mr Kobelke: It was a comment to one of my colleagues.

Mr JOHNSON: Did the Leader of the House say I was a neo-Nazi? If he did, he should have the guts to say so and retract it. Did he say it?

Mr Kobelke: You do not have a speech.

Mr JOHNSON: No, that is right.

*Withdrawal of Remark*

Mr JOHNSON: Mr Speaker, I think he called me a neo-Nazi and I ask that he withdraw that remark.

Mr McGOWAN: It is a matter of no concern to the member for Hillarys if members want to make private comments to each other in this Chamber. There is no point of order about private comments between members in the Chamber.

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Mr BOARD: I did not hear the comment but I am sure my colleague the member for Hillarys did. The fact that the Leader of the House was not prepared to restate it indicates he may have transgressed the rules of the House. I ask him to withdraw in the spirit of what takes place in the House. It is not a comment he would be proud of.

Mr KOBELKE: I did not call the member for Hillarys a neo-Nazi. It is another matter if he takes that tag upon himself. I did not call him a neo-Nazi.

Several members interjected.

The ACTING SPEAKER (Mr McRae): Order, members! Points of order have been made and I will consider the matter. I did not hear the remark. The Leader of the House has indicated that he did not say it and I take his word on that. I call on the member for Hillarys to continue his delivery.

Mrs EDWARDES: In what connection did the Leader of the House say it, because I heard it?

Mr KOBELKE: I did not call him that. I used the word.

Mr JOHNSON: The Leader of the House referred to me. He is gutless, sitting in this place not owning up to it and not withdrawing it.

Mr KOBELKE: We are trying to continue this debate without members calling each other names.

Several members interjected.

The ACTING SPEAKER: Order, members! A number of members were not in the Chamber when the Speaker made what I thought was a very thoughtful, patient and insightful comment about conducting this debate in a way that allowed the matter to proceed with the belief that the wider community has some respect for the House. We are getting to the point at which members will test that procedure and those guidelines. I am referring in particular to the members interjecting when a point of order is being addressed to me. I will not tolerate it and members will be called to order if it persists.

Mr KOBELKE: We clarified a misunderstanding about something that some members thought had been said that had not been said. The speaker on his feet is now referring to me as gutless. That again is an imputation on another member. It is clearly outside the standing orders, particularly given the specific direction given by the Speaker, and I ask that the member withdraw.

Mr JOHNSON: I am certainly big enough to withdraw a remark that may be derogatory. It is a pity that the Leader of the House does not have the same integrity.

The ACTING SPEAKER: There is no point of order. I appreciate the voluntary withdrawal of that remark by the member for Hillarys. Having made a ruling on a number of points of order, it is not for the member for Hillarys to canvass what members may or may not have done. He should proceed with his contribution to the debate, and I ask him to do that.

*Debate Resumed*

Mr JOHNSON: Before the interruption I was talking about the adoption clauses in this Bill, and whether the adoptions contemplated will be in the best interests of a child. We continue to hear the phrase "in the best interests of a child". We heard about it in the Child Welfare Amendment Bill and we even heard from the Attorney General today that the best interests of a child will be acknowledged. I am sorry, but that gives me no comfort whatsoever. I have seen many other Bills that the Attorney General has put through this place. He is trying to cram through as much as he possibly can of the Government's social agenda, legislation and policies. He is doing it this year because this is the first year of the Labor Government. The Government hopes that by the time the next election comes around, these issues will all go away. I can tell the Attorney General that this issue will never go away because the people of Western Australia will be reminded of it.

Anybody who believes that children can live normal lives - perhaps they can physically but not psychologically - with two parents of the same sex is living in cloud-cuckoo-land. The minister smiles as though what I am saying is a nonsense.

Ms McHale: I am not smiling. I am shocked at your lack of a sense of reality about what is happening now with children who live with gay and lesbian parents. It is a reality that you do not seem to recognise.

Mr JOHNSON: I am sorry, but the minister is surmising that everything in the garden is rosy in that situation. Of course it happens in some areas and it is happening now. I am not stupid. I realise it is happening in some areas. However, as the minister responsible, she should be looking after children's interests, not the interests of same-sex couples, whether they be lesbians or two males. I suggest that she is referring to two lesbian partners looking after a child, not two male homosexuals.

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Ms McHale: Do you want me to answer that? I am conscious of interjecting.

Mr JOHNSON: Yes, just a quick one because she made an interjection earlier.

Ms McHale: I am talking about the diverse nature of families and your lack of reality about what is a family.

Mr JOHNSON: I asked you specifically.

Ms McHale: Children live with lesbian couples and children live with homosexual men, and it is a fact that they are brought up in a very loving and caring environment. The difficulty for many members opposite is their inability to understand that.

Mr JOHNSON: The minister does not know that as a fact; she is surmising that and making an interpretation from what little she knows about that particular area.

When children are very young, they may seem okay and comfortable with two lesbian mothers; they may even seem comfortable with two homosexual fathers. However, how do they feel psychologically? What do they tell their friends at school? Do they say, "I've got a dad and a dad?" I mean, those children are different from the word go, and are therefore being discriminated against by being put in that situation. I do not believe for one moment that any Government with any moral fibre - in my view this Government is bereft of morality - would put children in a situation in which they would be at risk not only physically as they get older, but also mentally. They must attend school and mix with their friends, and they will immediately feel different from most of the other kids at that school. I know that some parents do not look after children properly; some are dreadful parents. I have no counsel for those people and I believe that children should be taken from parents who do not look after them properly. That may be a reason for the increase in the past six months in the number of children in care. Is it?

Ms McHale: No, four years.

Mr JOHNSON: It has increased in the past four years. Unfortunately, that appears to be happening in society. As my colleague the member for Kingsley said earlier, this Government would have our total support if it tried to support families. I am a great believer in marriage, but whether people are married or living in a de facto relationship, we should be supporting them. This Government is doing nothing along those lines. It is proposing to add to the problem by allowing almost anybody to adopt children, no matter what sex they are or what the future may bring to those children.

This Government is a stranger to the truth of morality and integrity because of the wave of social agenda it has in place currently. This Bill will have a massive impact on not only the family, but also the children involved.

The final point I want to cover before my time runs out is the fear that exists among families who have children at school. The last thing a normal family - for the want of a phrase - wants is for homosexuality to be promoted in any way, shape or form in schools. Parents do not want that.

Mr Dean interjected.

Mr JOHNSON: The interjection from the member for Bunbury was that they want to hear about safe sex or something. That is fine.

Mr Dean: They are already taught about safe sex. They are shown how to put on condoms.

Mr JOHNSON: That is fine. I do not have a problem with that. The problem is homosexuality. Homosexuality is not normal. Any members on that side of the House who think that homosexuality is normal are living in cloud-cuckoo-land. Members have to accept that homosexuality is not the norm.

Mr Whitely: Is red hair normal?

Mr JOHNSON: The member for Roleystone should not be silly. If he is going to interject, he should make a worthy or sensible interjection. He is dithering.

I have one minute left. Once again -

Mr Templeman: Hurry up.

Mr JOHNSON: The member for Mandurah should not worry; I will take the full minute.

I want to hear how the gay members on the other side of the House feel. I want to hear what other members on that side feel about the comments that will be made during this debate by all my colleagues. I am interested in what their arguments will be and how they can support the draconian aspects of this Bill. I wait with bated breath. I hope members opposite make a contribution to the debate on this Bill, because they certainly did not

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during the debate on the Family Court Amendment Bill. They were told to shut up. The Government did not want its members to make a contribution.

**MR PENTAL** (South Perth) [3.21 pm]: The Bill has been explained by the Attorney General and the shadow minister. The shadow minister made a particularly thoughtful contribution. The Bill contains a number of serious issues, some of which are worthy of support. Regrettably, those issues come to us as part of one comprehensive package. At the outset I express my disappointment that they come in that comprehensive form, because it effectively becomes a trap set by the Government. The consequence is that if one supports the Bill, matters with which one does not agree will be let through, and if one opposes the Bill, that will block matters with which some of us do agree. To that extent, it is a somewhat cynical exercise on the part of the Government. Had it introduced separate Bills - perhaps as many as 20 or 30 - or had it done what the shadow Attorney General suggested, which was to introduce two separate Bills with one containing those matters that have cross-party support and the other containing the more contentious issues, there would have been a far better outcome, not just for the Government but also for people who are looking for some progress with this legislation. I intend to oppose the Bill because I disagree with some of the issues it contains, even though it contains other issues which, in other circumstances, I would support.

I will deal with the first category that I mentioned - the principles that I would have been able to support. I recall supporting a Bill that was introduced by the then member for Thornlie, Yvonne Henderson, to this House in the mid 1990s. That Bill was specifically designed to outlaw discrimination against the homosexual community in housing and employment. I supported that Bill without difficulty. For what they are worth, my own views grew out of the view expressed in the mid 1980s in another place that it should be not only unlawful but also morally wrong to tolerate the sort of anti-gay sentiment and violence that once abounded in this State and country. I believed then, as I do now, that it was legally and morally wrong to demean or humiliate a person on the ground of his or her homosexuality. I recall that my attitude grew out of a horrific incident that occurred in South Australia when I was a young man. A prominent academic was taunted, criminally assaulted and probably drowned by people who took exception to the fact that he was a homosexual. When the Henderson Bill appeared in this House - I think it was in 1996 - I saw it as an extension of the South Australian environment. It was plainly legally and morally wrong to disadvantage someone on the ground of his or her sexuality. The Bill sought to turn back that form of humiliation. In that South Australian case, I think it was a Dr Duncan who was maltreated by some police officers. Landlords and employers have discriminated against homosexuals. Someone who seeks a job wants to be judged on his merits. I supported the general thrust of that Bill.

Similarly, I have no difficulty in accepting that a person should have the right to choose to leave his or her superannuation or other financial rights to anyone he or she chooses. It might be a neighbour, relative or charity. My view is that it is a matter of choice whether a male homosexual nominates another male to be the beneficiary of his superannuation fund. Personal sexual preferences should not come into it. Regrettably, the Bill we are dealing with today goes far beyond those matters that might otherwise have achieved universal support, as the member for Kingsley rightly said.

I am at a loss because the Bill is supported by an Attorney General and a Premier who, by their own admission, seek to enjoy, in theory at least, the reputation of possessing human rights credentials. Members are repeatedly told in this House - as late as today - that the Premier seeks to bring Western Australia into the modern world. It is a terribly superficial thing to say, but it is all about modernity. That has been heard many times. The weakness with that argument is that civil and human rights are not about modernity. The rights that we keep hearing about have nothing to do with modernity. They are the exact opposite. Those principles have been sought, created and won over long periods throughout human history. Therefore, there is no argument, in my view at least, that we need to make some sort of jump into modernity, as though that is the only way human rights can be achieved.

For example, I pose the question: where were the Government's human and civil rights last night when we voted on a Bill that I think is one of the most diabolical pieces of legislation I have seen in this Parliament - commonly called the anti-bikie legislation? In response to that, I say forget so-called modernity. Ancient and old-fashioned rights were simply and brutally set aside by that legislation alone, and all in the name of a grubby appeal to populist politics in Western Australia. The most dangerous, repugnant legislation imaginable passed through the House. It is an affront to the sense of human and civil rights to which the Premier and his Attorney General frequently turn. Look at the Government's commitment to civil and human rights in the use of the gag motion in this Chamber only a few weeks ago. I will not dwell on it because most members have hung their heads in shame. However, that was another affront to human and civil rights of members by applying a parliamentary procedure that effectively meant that the right of free expression went out the window.

In the whole drift of this debate, let us not get carried away with the superficial, shallow remark of the Premier - he is worth more because he has an excellent mind - that what we are doing in all these matters is bringing

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ourselves into the twenty-first century. How ironic is it, in a debate about the rights of homosexuals to be free from discrimination in this State, that the rights of the Catholic priest, the chaplain at Edith Cowan University, have been terminated? Is it not ironic in the context of this very issue that is before the Parliament today? What has been the response from the Premier and the Attorney General, those two men who say that they have a commitment to human and civil rights in this State? How false is the commitment to the rights of gay people when a university, which is said to be dedicated to higher learning, true research and also free speech, is part of the denial of the civil and human rights of, in this case, a chaplain - never mind what sort of chaplain or which denomination he represents - who wanted to put forward a contrary point of view? I ask rhetorically, where is the great Labor commitment to the United Nations Universal Declaration of Human Rights, to which I have referred on several occasions recently in other debates?

I remind members that that document was born and presided over in October 1948 by one of the best Labor human rights activists this country has ever seen - Bert Evatt. He is someone who, regrettably, at the end of his life did not have the faculties and facilities that he had early in his life. However, what he had early in his life was sufficient for him to be one of the fathers of that UN declaration that goes to the heart of this debate and the false notion peddled by the Government that what the Government is about is the achievement of human rights for gay people. I remind the House of what article 19 of that document says. For those who are not even interested in the general philosophical nature of the declaration of human rights, I invite them to look at it one day, because it is a bit like the United States Constitution and some historical documents that have not been upheld all that well, as we know, over the years. It is written in simple, plain language and embodies some of the finest aspirations that human beings have ever sought. Australia is a signatory to that declaration. I ask members to bear in mind that chaplain at the university who dared put a contrary point of view. That is all he did. He did not demean or diminish other people because of their sexuality. He expressed a viewpoint. Article 19 states -

Everyone has the right to freedom of opinion and expression: this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media

...

Those rights apparently apply to everyone except the Catholic chaplain at Edith Cowan University. Everyone can have an opinion without interference, as referred to, apparently, except that Catholic chaplain at Edith Cowan University. Everyone can seek, receive - I use the words from article 19 - and impart information and ideas, except the Catholic chaplain at Edith Cowan University. I ask, not rhetorically, where are the Premier and the Attorney General when we in this State are confronted with a gross distortion of that kind of article 19?

Mr McGinty: Do you want an answer to that?

Mr PENDAL: If I have time, I will come to it.

Mr McGinty: I was the first to condemn the action of dismissing him.

Mr PENDAL: I was about to pay the Attorney General a compliment.

Mr McGinty: Thank you.

Mr PENDAL: In fact, I will seek an extension of time, if I may, and I probably will not use it.

[Leave granted for the member's time to be extended.]

Mr PENDAL: In the same vein, where was this great institute of learning, and where was Professor Millicent Poole, the vice-chancellor who presides over a university that so summarily and arbitrarily dismissed the rights of, in this case, the Catholic chaplain, Father David Watt? What has Professor Poole done about it? I express my contempt of those so-called academics - she is among them - who are in breach of their own guidelines, quite apart from the declaration to which I have just referred.

Because they are relevant and concern a debate here about the rights of a section of our society, I will tell members about Edith Cowan University's guidelines and what they claim the university to be. They claim it to be a multicultural and multi-religious university community in which students and staff are free to pursue their personal religious affiliations. Those guarantees were not worth the paper on which they were written to Father David Watt. I have written a letter to the Premier, which I hope has now been received by the Attorney General. I am keen to know what action they are taking about this violation of article 19, to which this nation is a signatory, and for them to make inquiries about what the university will do about the violation of its guidelines, to which I have referred. Why should Professor Poole and others who have upheld that violation not be considered for removal from office? The situation is as serious as that. I dislike using the word, but it is hypocrisy at its highest level that members of Parliament and senior university personnel should be so inactive on the rights of one of their own, which rights have been obliterated.



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This brings me to the broad question of discrimination that was touched on in the Attorney General's second reading speech. I have said before, and I will say it again, that not all discrimination is wrong. People sometimes blanch at that. The reality is that we entrench discrimination in our laws in a bipartisan way. No amount of intellectual opposition can challenge the fact that some discrimination is quite proper. We discriminate against younger people by refusing to give them an old age pension. None of us sees anything peculiar in that. At the other end of the spectrum we discriminate against the elderly by refusing to give them drivers licences once they reach a certain stage of their lives. We discriminate against landowners and make them pay tax; we do not discriminate in favour of people who do not own land. We teach our children to discriminate properly. We teach them to make choices and by the very nature of that, we teach them to be discriminatory. We teach them to discriminate against that which is antisocial or unacceptable.

I now reach the points in the Bill with which I cannot agree. It is not wrong for us to deny lesbian couples access to in-vitro fertilisation programs. Similarly, that is why it is not wrong to deny homosexual couples access to adoption laws. I agree with the remark that we are dealing with a level of social engineering that I find ludicrous. We are being asked to change the meaning of words. Part of the report of the ministerial group refers to this new distortion of the English language in which we are being asked to regard a lesbian in a relationship as someone who is "socially infertile". It is a nonsense. It is fiddling with the language. As the member for Kingsley said, it is social engineering of the worst kind. The Government has gone about this matter in entirely the wrong way. We are not dealing with good legislation. We are dealing with social engineering of the most artificial kind - I doubt whether there is any other type. The good that might have come from changing the law to end unreasonable discrimination in jobs or housing has been deliberately bound up in changing laws that do not require change. The member for Kingsley made a useful contribution when she suggested that the Bill be split. That accords with my own view. Parts of the Bill are uncontentious and uncontestable. People can feel comfortable about supporting those parts. I have mentioned some of them. Why are they part of a comprehensive package that is in the form of take it or leave it? From a political point of view it may be seen as being clever. It is not cleverness at all. It is a case of a political decision having been made and including the so-called good with the so-called bad. That is the view of people such as I. It is cynical that we are presented with legislation in which we are required to give assent to things with which we disagree in order to pass things that we agree with. However, we have not reached the point of no return. The Attorney General would be wise to take the remarks of the member for Kingsley in the spirit in which they are offered. We are being offered a curate's egg - it is good in parts. We are being offered something with which many people can agree, but it is bound up with things in the Bill that I and others do not agree with. For those reasons I intend to oppose and vote against the entire Bill.

**MS GUISE** (Wanneroo) [3.45 pm]: I support this Bill. As I stated in my maiden speech, I believe that all people are entitled to the same protection under the law, regardless of their sexual orientation. The legislation brings us into the twenty-first century and is in step with the broader community. I remind members opposite that in 1994, during the mock Parliament between Young Labor and Young Liberal, only three members stayed on the opposite side of the House. All other members voted with Young Labor on the age of consent. I look forward to a similar result with this legislation. The legislation is based on human rights and respects international covenants of which Australia is a signatory. I will speak on several facets of the legislation beginning with the proposed changes to the Adoption Act, the Artificial Conception Act and the Human Reproductive Technology Act. The adoption of children should be based on the best interests of children, not on the sexual orientation of the adopting parents. I want to get a few things straight. First, there are many gay parents in our community. On average, only eight to 10 stranger adoptions occur each year in Western Australia. Homosexuality should never be confused with paedophilia. For those who cannot or will not see that children are safe within the confines of same-sex families, they need to heed the research that indicates that more than 90 per cent of child molesters are heterosexual and a child is more likely to be molested by a heterosexual partner or relative. I have not heard one reasonable argument as to why one's sexual orientation should preclude people from adopting children, especially when the decision to allow any adoption, whether it be to a homosexual or heterosexual couple, must always be based on the best interests of the child.

I have been horrified by statements I have heard recently that indicate that some people are prepared to see a child remain a ward of the State rather than be placed into the care of a loving couple of the same sex. I find that deplorable. Last week I read a letter in *The West Australian*. This issue is extremely personal; we are talking about human beings. I will quote a number of letters to the House that have either been published or that I have received. The first letter is entitled "Family Values" and is written by Toby Parker of North Perth. He writes -

As in many households, my partner and I fit two full-time jobs around the school day, accommodating school friends, sport and time to talk and play together. When I see my seven-year-old son so happy and confident I know that our efforts are worth it.

As I lay with my son snuggled in my arms the other night after the thunder brought him into our bed, I found it hard to believe that there are respected and influential people campaigning to destroy such precious moments. You see, my partner and I are men.

However, with the increasing level of sneering, vilification and self-righteous indignation the debate on gay rights is producing, it is only a matter of time before my son comes home from school in tears.

So who will be there to pick up the pieces and help him to accept others' hateful attitudes? Will it be the ones who precipitated it, the good defenders of family values? No. It will be us. And we'll do it with love, compassion and commitment.

Sexual orientation has nothing to do with whether one is capable of raising a child. Unfortunately, in our jobs, we are aware of many heterosexual people in our communities, frankly, who should never be allowed near children, let alone to reproduce them.

I would also like to draw members' attention to the Adoption Act 1994, division 7 of which deals with the placement of prospective adoptees and, in particular, section 45, which deals with the selection of prospective adoptive parents. It should be noted that when people sign a form of consent to a child's adoption, they have an opportunity to express their wishes about the child's upbringing and the preferred attributes of the adoptive family. Further, their wishes are recorded, so that, if practical, the selection is consistent with their wishes. The law should not be concerned about the sexuality of adoptive parents; rather, it is important that the law be concerned for children to be in a loving, supportive and stable home. The onus of the law should be on proving stability, prospective support and the ability to care for children.

The changes to the Artificial Conception Act 1985 and the Human Reproductive Technology Act 1991 are designed to give recognition to de facto partners, including same-sex couples, and the medical infertility of all women. On that note, I will share with members two letters that were published on Monday, 26 November in *The West Australian*. The first letter is headed "I want to be a mum again" and reads -

I am a mother and a lesbian. My partner and I wanted to have another child . . .

To my dismay I found out that I had a condition called unexplained infertility. After unsuccessful treatments with extensive hormone assistance, counselling and the emotional roller-coaster ride, we were basically told that we could not get any further treatments, such as IVF.

The current discriminatory laws of WA deny me the right to further reproductive assistance which, with my condition, would increase our chances of succeeding. I have a cousin (heterosexual) and she has almost exactly the same condition as me, yet she is able to use this technology. She is going through her second successful IVF pregnancy.

We are both infertile women, yet because of my sexual orientation I am discriminated against. I am a law-abiding, taxpaying citizen with a mortgage and my son has recently finished Year 12. I am just a woman who wants to be a mum again. Being a lesbian should not deny me that.

This person is a constituent of mine. Another letter in *The West Australian* is headed "IVF for lesbians" and reads -

In all the fuss about lesbian access to IVF, some reality has been overlooked. As a registered nurse, I am aware of women whose experience is that it is already the practice for fertility clinics in WA to provide sperm donation irrespective of marital status. Clinics generally acknowledge that to refuse service would probably breach State and Commonwealth anti-discrimination provisions.

Overwhelmingly, women who seek artificial insemination choose sperm donation. IVF . . . is sought by very few women, and even then only if sperm donation is not possible.

Allowing IVF to single women and lesbian couples does not mean they will suddenly have access to something denied them. IVF is already available to single women and lesbian couples in clinics in NSW, Queensland, Tasmania and Victoria. Reforming IVF law in WA simply means that women will no longer have to travel interstate for it.

The current legislation does not allow lesbian couples to access either IVF or artificial insemination procedures. As indicated in that letter, the access is available in other States. It is estimated that only one per cent of 14 000 IVF and artificial insemination procedures in Australia a year are for single and lesbian women; we are talking about 150 treatments nationally. The use of assisted reproductive technology and treatments is not something that any woman enters into lightly. I suggest that the child of any person prepared to undergo such a procedure would be fortunate indeed to have such committed and loving parents. I have also noted that access to medically assisted conception technology services - IVF - for single women, whether heterosexual or homosexual, on

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condition that the best interests of the child are the primary consideration in providing services is supported by the Social Responsibilities Commission of the Anglican Province of Western Australia.

No matter what their constitution, families will continue to produce lesbian, gay, bisexual and transgender offspring. Despite what some might think, homosexuality does not pose a threat to the traditional nuclear family. It is, in fact, homophobia that strains family relationships - a point I will explore further in this speech.

In dealing with issues of the age of consent, I refer to the Criminal Code and the Law Reform (Decriminalization of Sodomy) Act 1989. I point out that somewhere in all this beat-up hysteria we need to remember what we are dealing with here: the age of consent. In the *Oxford Dictionary* the definition for consent is "express willingness, give permission, agree to". In other words, we are talking about agreement, compliance and permission.

A 1997 briefing paper about the age of consent prepared by the New South Wales Parliamentary Library Research Service states -

‘Consent’ must mean fully informed consent. The *Butterworths Concise Legal Dictionary* defines consent in relation to the criminal law to be: ‘voluntary agreement freely given by a rational and sober person able to form a reasonable opinion upon the matter to which he or she consents’. The Royal Commission on Human Relationships recommended in 1977 -

I am sure the member for Fremantle would be interested in that -

that 15 be the general age of consent, basing this decision on the fact that:

... this approach would be a more realistic reflection of the sexual behaviour of young people and of their ability to make personal decisions. At this age children can leave school, get jobs and start playing a responsible role in society.

There appears to be some debate about the function of criminal law. The function of criminal law is to preserve public order and decency without interfering in the private lives of our citizens. The objective of equalising the age of consent for homosexual activity will remove any distinction between homosexuals and heterosexuals in the way the law applies. Some argue that the age of consent for boys should be different from that for girls, because boys mature later than girls. I ask where those people have been. I know I am getting older, but I am not that old. From a certain age, a lot of young males seem to think of nothing more than the hormones that are raging through their bodies. One mother wrote in *The West Australian* -

I have difficulty understanding the reasons why homosexual sex for my 16-year-old son should be less acceptable than heterosexual sex is for my 16-year-old daughter. Each of them has a male partner of about the same age. The argument that girls are more mature at 16 is irrelevant.

The proposed change to the law is only to remove discrimination against homosexuals. I know two 18-year-old men who have been in a relationship for more than two years. They asked me: "What are we supposed to do?"

The current laws in Western Australia are draconian and put young gay men at risk. I refer to an article in *The West Australian* on Wednesday, 1 August titled "WA's archaic laws turn young gays into criminals" by Sam Cutt, which reads -

I knew I was gay at 14 years of age. I "came out" to some friends and family when I was 15 and I'm now 17. I am a gay youth and in this State that makes me a criminal.

... the high age of consent for gay males does not protect young people.

... In WA, the age of consent for heterosexual people and lesbians is 16, but for gay males it's 21. This means all sexually active gay males between 16 and 21 are regarded as criminals. This carries a penalty of five years imprisonment.

As Sam says -

Turning young gays into criminals will not stop them from having sex or relationships. It just means they'll do it in secret.

Sam's comments reflect those of many young gay and lesbian people. In the article he also reflects on the lack of counselling and support services for gay youth at school and the fact that under the current laws WA is the only place in Australia where it is still legal to refuse gay and lesbian people a job.

The legislation in place today offers no protection for our young people. Under the current laws, too many young gay and lesbian people live in fear and uncertainty. They find it hard to come out and seek counsel and

**Extract from *Hansard***

[ASSEMBLY - Wednesday, 5 December 2001]

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help. Is it any wonder that Western Australia has one of the highest rates of youth suicide in this nation? The change in the age of consent will mean a great deal to young men coming to terms with their sexuality. For many, the fear of the law and community attitudes is too much to bear. Each year, many young gay males and lesbians commit suicide or self-harm. When I resume my comments in this debate, I will share with members some of the pain that parents and their homosexual children share, because of that silence and fear.

Debate interrupted, pursuant to standing orders.

[Continued on page 6495.]