

ACTS AMENDMENT (LESBIAN AND GAY LAW REFORM) BILL 2001

Statement by Speaker

THE SPEAKER (Mr Riebeling): Before we move to the second reading debate, I will make a couple of comments. I had hoped that there would be a few more people in the Chamber. This particular debate will be an emotional one, and all members understand the level of differences that currently exist in this Chamber. I call on members to listen to the contributions of other members and to respect the differences that are expressed. I also advise members that interjections that are persistent and designed to dominate the debate will not be allowed. Also, I will not allow reference to members by any term other than by the seat or office they hold. I seek the cooperation of all members in this probably difficult debate.

MR BARNETT (Cottesloe - Leader of the Opposition) [12.57 pm] - by leave: Mr Speaker, what you have said is perfectly valid. Members should treat this debate seriously and they should display courtesy and refer to members by their electorates. I have no difficulty with that. However, I make the point also that this is a very personal issue for a number of members of this Chamber and also for the community at large. Issues of a sensitive nature should not be dealt with under duress in this Parliament. I respectfully submit to you that one of your responsibilities as Speaker is to ensure members are not under duress and sensitive social issues are not dealt with in an untimely manner.

The SPEAKER: I take on board the Leader of the Opposition's comments. I agree that this debate will test members' resolve in how they deal with each other in this place. I hope that by the end of the debate, there is a lot of respect in this place rather than aggravation.

Second Reading

Resumed from 14 November.

MRS EDWARDES (Kingsley) [12.59 pm]: I lead the debate on behalf of the Liberal Opposition in this House. This Bill has been promoted as one that will achieve equality for gays and lesbians. The Liberal Opposition and the community in general have no disagreement with the majority of the provisions in the Bill that deal with matters of equal opportunity.

Apart from a number of drafting issues and serious flaws, which I will point out not only during the second reading debate but also in the consideration in detail stage, four key issues are of concern to the community. The first of those is the so-called age of consent. I refer to it as "so-called" because it deals not with consent to have sex at a particular age but under what age it will be an offence for there to be sexual penetration between young males. The second area of concern is the issue of education in schools. That debate has raged over the past week. The issue is one of promotion of a particular view and whether that goes against the way in which health and sex education has normally been taught in schools. The two other key areas of concern are the amendments to in-vitro fertilisation and adoption laws. Those amendments seek to provide lesbian couples with access to IVF treatment and to determine the other partner as a parent of the child, and to allow same-sex couples to adopt children. Although the Opposition recognises the emotional needs of people, the question that must always be asked is what is in the best interest of the child. That must come first and foremost before the emotional needs of adults are dealt with.

This is a complex Bill. It is not easy to read because of the wide-ranging changes that will be made to many pieces of legislation. It could be referred to as an omnibus Bill, as they have become known in this place. When a Bill is complex and one needs to go to a number of pieces of legislation to determine what is being changed, it needs to be thoroughly examined. Drafting errors have already been identified, which I will point out. The Attorney General has already placed amendments on the Notice Paper today. Whether those amendments are there to pick up drafting errors or are an endeavour, as was reported in the newspaper, to gain a greater level of support for the changes in the community, is something on which he can advise the House when he moves those amendments.

I do not think that the Bill does what it says it does, particularly with the amendments to the Criminal Code. I do not think it achieves what this Government wants it to achieve, especially with the defence provisions. Since I have been a member of this House it has been common practice for sensitive issues, such as adoption and IVF laws, to be dealt with through consensus. A great deal of work and genuine attempts have been made to reach consensus on legislation dealing with those matters when they have previously come before the House. That picks up the sensitivities held by members on all sides and in both Houses of this Parliament. Those sensitivities are reflected in the broad community, and members represent the broad community. However, there has been no attempt to deal with the changes in this Bill to adoption and IVF laws by way of consensus. A common approach to the legislation has not been sought.

The Bill contains some non-controversial amendments and should be split. There would be common agreement on one of the resultant Bills, not only in this House but also in the general community. The second Bill would

contain the sensitive amendments on which the community would like more time to debate them. This Government is making a push to rush this legislation through Parliament before Christmas. One sensitive amendment is to education in schools. There appears to be some debate between the Minister for Education and the Attorney General about how that will occur. Members can imagine the debate that will ensue in the school community. All parents and citizens groups have held their last meetings for the year; therefore, it would be an impossible task to get information out to each school in our electorates. At this time of the year, in the lead-up to Christmas and school graduations, no-one will sit down and take a serious look at what should or should not be permitted within schools. That is a key issue. I do not know who will be dealing with that matter. The Attorney General established a task force and the Minister for Education has worked on this issue for two years. There obviously needs to be a far greater level of input from the broader school community.

This legislation will undermine many of the values held dear by people in this place and in the community, including those values of family and marriage. I suggested to the Government during debate on the Family Court Amendment Bill that the provisions contained in this Bill concerning emergency procedures in the case of death and inheritance could have been put in that Bill.

This Bill contains controversial provisions. I strongly recommend that the Government withdraw this Bill and create two new Bills. The people I have spoken to in the gay community are concerned about several matters. They have been holding out for equal opportunity for some time. As such, they do not want the controversial aspects of this legislation to hold up some of the necessary changes, which sometimes have an impact on a daily basis. That support needs to be provided. The Government should split the Bill in two so that we could quickly deal with the non-controversial matters. That would allow adequate time for public debate on the controversial aspects of the legislation. As I have said before in this place on matters of law reform, if the Government moves too fast, it will not take the community with it. Attitudes in the community have changed over the past 20 years. It is likely that the Government will create a greater level of divisiveness in the community through its approach to this legislation. That is not what it is seeking to do, but it will possibly be the outcome if this legislation is rushed through far ahead of where the community is at today. The Government should withdraw the Bill. Most of it is acceptable, but there should be time to have sensible argument and public and community debate.

Family and marriage represent a fundamentally important concept to many people, not only in this place but also in the community. Failure to nurture and support the family and marriage means that this Bill will be represented as being antifamily.

There is a great need to pick up on the public debate and consultation. The Government has seen only the nth of it in terms of the education debate. The community holds a diverse range of views on this sensitive subject. It is a highly emotional subject. It should be discussed by the local community. I receive 10 letters in opposition to this legislation for every one letter of support. If we go back a couple of weeks to the debate on the Family Court Amendment Bill, the number of letters in opposition was nowhere near as high as that. The reason I am receiving those letters is that more and more people are becoming aware of the changes that this Government is about to make, and they do not like them. I do not think I would be the norm, because most people know where I stand on this issue, but it is significant that the letters I am receiving are 10 to one against the legislation. If that number continues to increase incrementally, the Government will have a major problem - not with the votes for the next election, but in the level of divisiveness in the community that will ensue from this Government's attempt to push through this legislation.

We will oppose the legislation; first, because it has not been subject to the full range of public debate and consultation; and, secondly, because the Government has the opportunity to split the Bill and deal with the non-controversial issues, which we can deal with quickly, as we have dealt with non-controversial issues in this place previously, and allow the remainder of the debate to go out to the community. We will move at the end of the second reading that this legislation be referred to a standing committee, in an endeavour to ensure there is an opportunity for public debate. However, it is open to the Government, before we get to that stage, to split the Bill as I have proposed.

I turn now to families and parenting. This Bill may be regarded as being antifamily, particularly the provisions for adoption and access to in-vitro fertilisation; and the provision to lower the age of consent, because, do not forget, we parents are very much part of the picture. An opinion poll has shown that most Australians believe that children are best raised in the care and protection of both their mother and father. The contrary argument is often put that children who are raised by homosexuals do just as well as children who are raised by their biological parents; and that is covered by a number of studies. A further piece of research has argued that all those studies are flawed. I will not go through the studies and the debates and arguments on both sides. However, if we take the adoption legislation as an example, strict criteria have always been laid down for adoptive parents in order to protect the child and ensure that the best interests of the child are paramount. Two of those criteria have been a stable home environment and a long-term monogamous sexual relationship. The definition of "de facto" that is contained in this Bill will extend those monogamous relationships, because a

person can have two, three or more partners at any one time. As I pointed out previously, the Government's proposal to move that definition into the Interpretation Act will not allow it to test that definition against every piece of legislation in which it will be inserted, and that will cause major problems, and I suggest in some instances legal challenges, because in some cases it will obviously not be appropriate. Studies show that although marriages are breaking down at an increasing and alarming rate, gay and lesbian relationships are also breaking down, and they break down even more quickly. That is not to say there are not long-term relationships among both married couples and gay and lesbian couples. Each of my friends who is in a gay or lesbian relationship is in a long-term relationship. However, when I have asked them whether they would like the adoption and IVF laws to be extended to gay and lesbian couples, they have said no. They do, however, have lesbian friends who have emotional needs that need to be met and who would like the opportunity to adopt a child or have a child through artificial conception. There are different views even within the gay and lesbian community. One matter that some of the male couples have raised with me is that their relationships break down even faster than lesbian relationships.

The information that I am presenting to the Parliament is anecdotal. I have not done a broad-ranging study in which I have interviewed a set number of people. However, my information is representative of the fact that many people in the community do not have the same views as the people who constituted the committee and delivered the report to this Government. The Government is not even seeking to find out what will most benefit the broader gay and lesbian community. Yes, those people will say they want equal opportunity; and that is put under one big umbrella that is supposed to encompass everything, but that is not necessarily the case when we break it down or disaggregate it. If we were to say we will make the amendments to give them equal opportunity, but we will put the other issues out to the community for debate, I am sure they would say, "Yes; put that back out to the community. That is not absolutely critical to our day-to-day family life and our work and play."

I return to families and relationships. In one story that I have read, a lesbian couple adopted a child, but only one partner wanted to adopt that child and the other one just went along with it. Some heterosexual couples have had similar experiences. We all know that having a child does not necessarily keep a relationship together. Those of us who are parents know that a child can put great stress and strain on a relationship. I recently came across a speech by the Home Secretary in the United Kingdom; and because he is of the Attorney's political faith, I thought I would bring it to the Attorney's attention. This speech was delivered on 23 July 1998 at the launch of the Lords and Commons Family and Child Protection Group's report entitled "Family Matters". The Home Secretary said -

In our Manifesto -

That is obviously the equivalent to policy -

we committed ourselves to strengthening family life. We promised to "uphold family life as the most secure means of bringing up our children. Families are the core of our society. They should teach right from wrong. They should be the first defence against anti-social behaviour. The breakdown of family life damages the fabric of our society".

The Home Secretary said also, with regard to family policy, that the Government's role should be a supportive one. This is what I said last week. All a family ever expects from a Government is support. However, this Government is starting to break down the family. The Family Court Amendment Bill puts the rights of wives, and therefore children, behind the rights of de facto partners. That is not right, and the community does not accept that as being right. Another important issue is drugs. State and federal Governments have spent a lot of money on telling kids to say no to drugs, and as parents we want to tell our kids to say no to drugs, yet our kids can now turn around and say, "Hang on, mum; the Government says that we can grow two cannabis plants."

Mr Barnett: A little bit is okay.

Mrs EDWARDES: Yes. That is not acceptable. The Government is undermining our role as parents. Being a parent is far from easy. We are not trained to be parents. It is something we learn from our parents, and we take into our families in the future the values that our parents have given us.

The Home Secretary said also -

The Government's role should be a supportive one - strengthening families and helping parents to bring up children.

He makes what is probably a trite statement -

... our children are the next generation. How they grow up determines society's future. We need to recognise the importance of good parenting in building a decent, stable society. Families need

Government policies which nurture them rather than damage them whether that is by neglect or carelessness.

The Home Secretary goes on to say that he sees marriage as an important stability factor for the community. He recognises that for millions of people, marriage provides a firm foundation for bringing up children in a rapidly changing world. He then recognises de facto couples, whom he refers to as cohabiting couples. He says -

Married couples are more likely on average than cohabitees to stay together and, therefore, to provide stability for their children. . . . Many couples who choose not to marry provide a loving and stable environment for their children.

I hate generalising, because examples that defeat the generalisation always come up. However, we are talking generalities in any event. He continues -

There is no question about that. But it plainly makes sense for the Government to do what it can to strengthen the institution of marriage as a basis for bringing up children. We want to do this without stigmatising other family groups.

In this legislation, a fiction of family and parenting is being created. The community will not accept that. The issues on which the United Kingdom Government was concentrating were better financial support for families, strengthening marriage and adult relationships, balancing work and home, and better services and support for parents. Under that section, the Home Secretary quotes Aristotle -

. . . “the beginning is half of the whole”. The early years of a child’s life are critical. Investment in young children is the single most valuable investment we can make as a society. We are therefore determined to invest in better opportunities for our youngest children and support parents in preparing them to succeed at school and in life.

The interest of the child must come first under this legislation, but it does not. The UK Government was also concentrating on a new national institute for the family, a national help line, health visitors, and a targeted approach to serious family problems. The UK Government has adopted what I regard as a comprehensive, targeted approach to help and support families and, therefore, children. However, that is not what this Labor Government is doing. Legislation that is antifamily and is certainly not helpful to parenting is being brought into this House.

I will deal with gender and education. I have had two sons. One of the critical issues that is the subject of debate at the moment is that of boys’ education in schools. Many books have been published in an endeavour to guide teachers and parents in helping their male students and sons, in particular. However, they apply equally to girls and helping them to achieve better results at school. One such book called *Raising boys* is by Steve Biddulph. In that he says that boys need a father. They need to share and develop their relationships, and they need role models. He says that role modelling is how humans learn. Therefore, role modelling is critical when young people are placed in a household in which the adult couple are in a same-sex relationship, whatever the sex of the parties may be. If a lesbian couple has a male child, it is important to consider how that boy will have a father role model. *Raising boys* deals with how to spot an under-fathered boy in school. There are four main clues in spotting that a boy is seriously under-fathered. The author would not have written this if it were not an issue. It has clearly been identified as an issue in boys under-achieving at school. The clues are an aggressive style of relating, hyper-masculine behaviour and interests; and an extremely limited repertoire of behaviour - although the words in parenthesis could apply to a lot of boys. It says “standing around grunting and being ‘cool’”. I am not sure that grunting and being cool is necessarily a clue to spotting an under-fathered boy. However, that is obviously in the context of all the other factors. The last clue is derogatory attitude to women and minorities. These traits are familiar to every secondary schoolteacher in the western world. An examination of what is causing these factors shows that even if a boy has a mother and a father, the mother has a stronger role and puts a barrier between the boy and his father; or if a boy comes from a single-parent family in which there is no male figure, the father does not have an active role in the relationship, and there is no male uncle or male friend. Therefore, this issue must be taken into account when the issue of female couples adopting children is considered. What is in the best interests of the child must be considered, because this is already starting to be recognised as a major issue in the community.

The author spends some time discussing role modelling. Although he says that girls, as well as boys, need role models, I believe that girls have many more role models than do boys, because in schools there are far more female teachers than male teachers. That seems to be another key issue. However, this is all in the context of what we are discussing in this debate.

I will deal with the education changes in schools that are being promoted. Education in schools is a critical issue in the community. I have spoken to a number of school principals, and they have said that the issue is too sensitive. They said that they would advise their teachers not to deal with this highly sensitive issue in the

classroom. I asked my 15-year-old what he was taught in sex education in school. I will not tell the House what he said, but it was something like, "Here's the book, mum. Read it." Sex education in schools deals with sexuality, being male or female, the development of typical male and female stereotyping and whether that is right or wrong. It deals with that in the context of sex roles. It also deals with sexual development. Obviously, that deals with development from boy to man and from girl to woman, and the whole body aspect. However, it leads constantly to the fact of conception. Sex education in school leads to male-female sexual activity and conception.

Changing feelings, relationships and sexual partners are also dealt with. A section in the book deals with homosexual relationships. It refers to the relationship as having feelings for the same sex, and says that that is not necessarily wrong at that young age. In fact, people can have crushes on others of the same sex in those early teenage developmental years. However, that does not necessarily mean that a person is homosexual. That is the issue in whether we are promoting homosexuality as an alternative option to the normal concept of male-female sexual relationships and conception, which was referred to earlier. What is discussed in the context of homosexuality is appropriate. The common questions are discussed; for example, what causes homosexuality. That is dealt with in a real way. Discrimination and the hope that in the future the community is likely to change are discussed. However, the sexual activities of homosexual couples are not dealt with. Therefore, where will the line be drawn? That is the concern of the community, and it wants to have a say on that matter.

Parents want their children to make responsible sexual decisions and they hope the school will enable them, as parents, to help their children make proper sexual decisions. I suggest that the age of consent of 16 is not necessarily the appropriate age for young people, even heterosexuals, to have sex. Young people ought to be taught that they may not be ready for sex at that age. Why not? Because a whole lot of other feelings result from having sex at a very young age - guilt, confusion and unwanted emotional feelings. This book goes through those issues in some detail. The book encourages young people to say that it is not okay to have sex at the age of 16, but that the decision ought to be made only after the circumstances are considered. Whether we are talking about heterosexual or homosexual young people, we should not encourage people to think that 16 is the age of consent. That is why I referred to the so-called age of consent; it is not okay for young people to have sex at that age. That is my view as a parent, and it is the view of many people in the community.

If young people have sexual feelings for others of the same sex, that does not necessarily make them homosexual; they should not be pushed into that way of thinking. However, if they have those feelings, they need some form of support. The question in my mind is whether it is appropriate for teachers to provide that support. In any event, young people ought to be encouraged not to have sexual relations. That is the critical issue. I have a problem with the term "age of consent" as it implies that it is okay to have sex at that young age.

An article in *The West Australian* of 1 December headed "Gay school lessons for young students" demonstrates the divergence in the community. It is reported in the article that the Gay and Lesbian Equity thinks primary schoolchildren should be taught about being gay. I have not seen the curriculum and material from that organisation. That is not to say that primary schoolchildren do not know about gay couples; that is a different issue from dealing with gay sexual relations. The article states -

Children should be taught about positive gay role models, diverse sexual preferences and how to be involved in a safe homosexual relationship . . .

I disagree that these sorts of issues should be talked about in primary school. Children who are 14 or 15 years old may be taught about heterosexual relationships, but dealing with homosexual sexual relations is taking it too far. That is another good reason for consulting with the broader community. Rushing this legislation through before Christmas does not permit the schools or the people in my area, let alone all the schools in other areas, to have a say. The Government decided that it was okay to have representatives from the Western Australian Council of State School Organisations on its task force, but WACSSO does not represent the views of all the people in school communities. That has been the case for as long as I have been a member of Parliament, and it will continue to be the case long into the future. We need to get views from the schools. I do not need to repeat the editorial I referred to yesterday, but I reinforce it: members should not politicise the curriculum.

Mr McGinty: *The West Australian* got it all wrong.

Mrs EDWARDES: The Attorney will have an opportunity to put forward his view. If *The West Australian* got it wrong, where are the views of those in the community, and how will the Attorney learn how they feel about this issue? Those in the community need to know from the Attorney General exactly what is being proposed, otherwise they will be jumping at generalities, because they have not been presented with the detail. They do not want this reform. I spoke to some young people on Friday night - 21 to 23-year-olds and school leavers who were joining the work force or starting academic studies - and they do not want it. When they have children they do not want them to be taught about homosexual sexual relations. That is the critical issue. They probably know far more about this issue than I, and they do not want it. If school principals are saying that it is too sensitive for

their teachers, young people are saying, "No way", and we do not know the views of the rest of the community, this Government is on a hiding to nothing. The point I raised earlier about divisiveness will be even greater. The Attorney General is not setting out to do this; he is seeking to provide equal opportunity, but he will create a bigger divide in the community.

There is much research available on children of gay and lesbian parents and the psychological adjustments they must make compared with children growing up in more traditional family structures. I have with me an article from the magazine *Family Matters*, which I think everybody regards as a highly reputable publication from the Australian Institute of Family Studies. That organisation identified some common difficulties that children confront and suggested some possible approaches to overcome them. It is basically saying that kids have a hard time growing up in any event, so do not make it any harder for them. Children of homosexual couples may face some particular challenges in school, and that organisation has suggested ways of overcoming those challenges. However, again we do not have the details, the support mechanisms and the information to help them. The issue is what we should do for the children, if we are putting their interests first and foremost before the emotional needs of the adults.

I now come to the issue of in-vitro fertilisation and adoption. The members for Hillarys and Murdoch will go into more detail on both those issues, given their respective portfolio responsibilities. I said earlier that the amendments to the Adoption Act, IVF and artificial conception are creating a fiction of the married couple - a fiction of the family. When fictions are created there will always be problems - social and legal, and a whole range of issues. We are again undermining the family. The welfare of every child born should be considered above everything else, whether or not they have been adopted or however they have been conceived. I have looked back over some of the old debates in this Parliament about adoption and IVF - these issues have always been contentious - and Hon Tom Stephens in the 1991 debate in the other place referred to Cardinal Bernadin of Chicago. The debate at that time was dealing with IVF and the cardinal had referred to technological changes. The cardinal said something along the lines that in a technological age, when people can do anything they really want to, the question they must ask themselves is how do they morally decide what they should never do.

The question then arises about extending in-vitro fertilisation to lesbian same-sex couples and extending adoption to same-sex couples. Morally, is the welfare of the child being taken into account? The interests of children should be taken into account as well as the interests of other children from a relationship who will be affected. This Parliament has seen huge debates about the availability of artificial insemination. Considerable ethical, moral, social and legal issues have been raised. In-vitro fertilisation should be restricted to married couples or couples living in a long-term de facto relationship. That will put the best interests of children first. We are all aware of instances in which family relationships and marriages have not worked. The manifesto of the British Labour Government states that if one is serious about establishing a stable society, money must be invested in the welfare of children. By doing so, families and parenting are supported. That is first and foremost before anything else is done, particularly before introducing government policies that undermine families and parents. I will not go through the respective debates as the member for Murdoch will go through them in far more detail. The question with IVF is the need of the child to know who are his parents. With IVF the potential is that a child may have three or four parents, depending on how the child was conceived. To introduce the notion of a same-sex couple will create further issues for a child to deal with. The community is already debating the biological and social concepts of family and parenthood arising from the IVF debate. To introduce a further element will only confuse and extend the debate further.

In respect of adoptions and the age of consent, children cannot obtain information until they are 18 years old. Why is that the case? It is because young people do not necessarily have the ability to deal with identifying information. Tell me if I am wrong. This Parliament has said that every time we have moved to amend the adoption laws. That message has been sent clearly to the community. If a person is not mature enough to deal with identifying information before the age of 18 years, it is still a critical issue when dealing with the same level of sensitive concepts such as families and parenting. It is not appropriate to lower the age of consent for sexual activity between males.

I am pleased that the Attorney General has circulated an amendment that incorporates heterosexuality in the definition of equal opportunity. To not have it originally was a major flaw. I do not know whether it was intended in the first instance or whether it was an oversight. A section 81 report was prepared by the Commissioner for Equal Opportunity on discrimination on the basis of sexuality. It was commissioned by the former Minister for Justice, David Smith, and published when I was the Attorney General. It recommended that the Equal Opportunity Act be amended to include sexuality as a ground of unlawful discrimination. That encompassed heterosexuality, homosexuality, bisexuality and transsexuality. Perceived sexual orientation is expressly protected. As such, it would not exclude heterosexuals because, all of a sudden, heterosexuals were in the minority in terms of the definition. I should let the Attorney General know that there are a few of us around. I am sure he well recognises that. Under the definition in this legislation it was proposed for gays and lesbians to

be able to discriminate against heterosexuals. I am sure it was an oversight and not intended by the Attorney General.

Mr McGinty: It was intended. We all discriminate every day of the week, in one way or another. We wanted to offer protection primarily to discriminated minorities. Government backbenchers raised the issue and said that it is only fair that things be on an equal basis. As such, we have made an amendment. It was quite deliberate; it was not an oversight.

Mrs EDWARDES: That is interesting because the Equal Opportunity Act has always been neutral. The Attorney General is talking about minorities but every reference to discrimination in the Act is neutral. The Attorney General was set to introduce the first discriminatory aspect into the Equal Opportunity Act. I am pleased to see there is an amendment. The Attorney General would otherwise be contradicting the Act. There was concern on this side of the House as well as the government side.

I will quote extracts from the report that deals with human rights, sexuality and discrimination. The first states -

... the question under consideration at the local level is whether the sexuality of a person, irrespective of whether the expression of that sexuality is heterosexual, homosexual, bisexual and transsexual is a factor of relevance in areas such as employment, education, accommodation and the provision of goods, services and facilities.

That means that sexuality cannot be used as a factor for discrimination. Page 37 of the report deals with recommendations. The report refers to the term "homosexuality". Some lesbian couples do not like the term as it refers to the word homo, meaning male. Others do not give the term any weight whatsoever. "Gay" is a common term but often misused. In her analysis of antidiscrimination legislation, Thornton states -

... *particularity of homosexuality is nevertheless shaped by the overriding universalism of maleness, so much so that it is commonly thought that the prefix homo derives from the Latin for man (homo) rather than the Greek for like (homoios).* ...

It was originally thought that homosexuality meant "same". With its common usage, it is often likened more to "male". The report continues -

As a consequence, for many lesbians who experience discrimination on the basis of their sexuality, the term is of little relevance and application. This is attested to by the number of women who have lodged a complaint under the ground of homosexuality.

The final outcome of the report is that all sexist language should be removed. Canadian Acts were amended to change the term "homosexual" to "lesbians and homosexual men". The language in the Canadian Act is in a different form from that which is in this legislation in an endeavour to render invisible experiences of discrimination on the basis of sexuality. I do not know whether the Attorney General has the language right. However, I hope the Bill will reflect the community's interests.

I refer to the so-called age of consent. I referred to the fact that identifying information cannot be given to adoptees until they turn 18 years of age, which is the age at which they can vote. I can refer to a series of age requirements within legislation. However, as I said earlier, the issue of the so-called age of consent is about protecting young people before they fully understand the consequences of their desires. It is not okay for young males or females to have sex at the age of 16. Individually and personally, they may not be ready to have sexual relations at that age because they may be too immature to fully understand the consequences of their actions. The community does not accept that the age of 16 is appropriate for young men or young women to engage in sexual penetration. We are dealing with a critical and sensitive issue in the community.

I believe that there are major problems with the drafting of the legislation. The Bill amends section 184.

Mr McGinty: Are you referring to the Criminal Code?

Mrs EDWARDES: Yes. Section 184 is headed "Indecent practices between males in public" and refers to "attempting to procure", which this Bill will delete. Section 203 deals with indecent acts of sex in public. However, it does not refer to "attempt to procure". It will therefore be more difficult to enforce the law, particularly for events that take place in public toilets. The Attorney General will create a major problem if he removes section 184 and the offence of "attempting to procure".

Mr McGinty: I will have a quick look at that but parliamentary counsel said that was all covered.

Mrs EDWARDES: I hope the Attorney General will do that. The amendment to section 186 will create another major problem. Owners and occupiers will be charged with an offence, but they will be able to draw on the new defence outside "the reasonable belief" definition. I do not have a problem with owners and occupiers being charged, but what will be the perpetrator's position? The Attorney General must consider whether he has provided appropriately for that situation. He may need to rethink that defence provision.

In the principal amendment - section 321 of the Criminal Code repealed - the defence provision will remain as "reasonable belief". I am sure the Attorney has inadvertently missed that, but it is again a reflection of poor drafting. Section 321 refers to a child of or over the age of 13 and under the age of 16, yet the "reasonable belief" provision has been left in that section. Section 321A is to be amended with a new defence. The "reasonable belief" defence has been left in section 322, which is about sexual offences against individuals by persons in authority. I wonder whether a defence should be removed from any section referring to people's ages. Somebody in authority, such as a teacher or an employer, is likely to have some knowledge of a child's age. The Bill repeals section 322A, which covers sexual consent under 21 years of age. The legislation appears to have some major drafting problems that impinge on what the Attorney General wants to achieve.

I refer to the comment by the Premier during the debate last week about criminalising acts between 16 and 17-year-olds if the age of consent is 18. The 10 cases prosecuted under section 322A of the Criminal Code since 1992 have not involved 16, 17, 18 or 19-year-olds. They have involved people aged 65, 60, 54, 38, 36, 35, 21 and so on. The potential for young people to be caught in that criminal net, therefore, is a furphy.

At the end of the day the Government should be seeking to protect young people through this legislation. Will it implement sufficient protections for young people? That issue should be separate from the emotional impact on adults involved in the debate. The Opposition believes the Attorney General should rethink this legislation. It has been suggested that if the controversial and non-controversial aspects of the Bill are split between two Bills, the non-controversial aspects will pass. That will ensure that the gay and lesbian community gain what they have been seeking for a long time; that is, equal opportunity. The Opposition will oppose the second reading and if it is not split, the Opposition will move to refer it to a standing committee in an endeavour to ensure that the more controversial aspects have a wider airing in the community and government members will hear their views.

It is not as though the Opposition does not understand the aspirations of individuals to become parents. It does, but at the end of the day every single aspect of this legislation must put the children's interests first and foremost. It does not do that. The Opposition wants to emphasise that the Government must protect young people.

This legislation will have a deleterious effect on families and marriage, as have other social reforms implemented by this Government. As I have outlined with a number of examples, this Government's policies will potentially further undermine the role of parenting. I am sure that before the end of its term, the Government will give us cause to add to that list.

The Government should follow the example of the Blair Government and include in its policies and manifestos - whatever it wishes to call them - a commitment to families, marriage and parenting, and it should support those institutions that are valuable to the fabric of our society. As the Home Secretary said, the children are our future and, although it may be trite to say so, they are the cornerstone of our society and the policies we put in place for them today will be reflected in society in the future.

I implore the Attorney General to split the Bill, let us deal with the non-controversial issues quickly and allow the controversial issues to be referred to the public for more debate and consultation.

MR JOHNSON (Hillarys) [1.59 pm]: I compliment the member for Kingsley, who has presented an extremely articulate argument on this Bill not only as a wife and mother in a strong family unit but also as a competent lawyer and past Attorney General. Her arguments have been worthy. Her last words were that the Bill should be split. I agree with her that this Bill should be split. Members on this side of the House agree with the Government on many areas of this Bill. However, on a number of issues, we have fundamental differences from members on the other side of the House. Splitting the Bill would ensure a quick and easy passage for what I consider to be the important issues to the gay and lesbian community - equal opportunity and antidiscrimination. However, because I am 99.9 per cent certain that the Attorney General will not split the Bill and wants to keep the draconian parts of this Bill with those affecting the issues I mentioned, it will take time for the Bill to be passed.

Debate interrupted, pursuant to standing orders.

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