# LEGISLATIVE COUNCIL

Wednesday, August 2, 1972

The PRESIDENT (Hon. Sir Lyell McEwin) took the Chair at 2.15 p.m. and read prayers.

PETITION: *LITTLE RED SCHOOLBOOK*

The Hon. E. K. RUSSACK presented a petition signed by 67 electors of the Midland District alleging that, because of its subversive nature, the *Little Red Schoolbook* is an undesirable publication to be freely available to schoolchildren and praying that the Legislative Council will initiate such legislation or administrative action as is necessary to prevent this book from falling into the hands of schoolchildren.

Petition received and read.

## QUESTIONS

### SUPER CARS

The Hon. R. C. DeGARIS: Has the Minister of Lands received from the Minister of Roads and Transport a reply to the question I asked on July 19 regarding modifications to motor vehicles?

The Hon. A. F. KNEEBONE: The Minister of Roads and Transport reports that at a meeting of the Australian Transport Advisory Council earlier this year it was agreed that the various States should introduce legislation to limit modifications to motor vehicles when such modifications jeopardize the safety of the vehicle and its occupants. Details of such legislation are still under consideration in South Australia, but once the proposed legislation becomes effective it will be necessary for people wishing to carry out modifications to submit their proposals to an appropriate authority beforehand. As it will not be possible for people to increase the engine capacity of their vehicles without obtaining the authority's approval, this should have some effect in eliminating stock model cars being converted into high-speed and unsafe vehicles.

### DROUGHT RELIEF

The Hon. M. B. CAMERON: I seek leave to make a statement prior to asking a question of the Minister of Lands.

Leave granted.

The Hon. M. B. CAMERON: Shortly before the break of the season, which was extremely late this year, the Minister issued a statement indicating that the Government would support people who were being affected by drought conditions. Can the Minister say what areas are still affected by drought; what effect the dry conditions early in the season will have on the general crop prospects in South Australia; and how much money has been allocated to people who suffered from the early conditions of drought?

The Hon. A. F. KNEEBONE: I can answer some of the honourable member's questions without reference to my office, and I think the Minister of Agriculture also will be able to answer part of the question. No money has been paid out as yet to anyone for drought relief in the form approved by the Government. Inquiries have been received, but no specific claims have yet been lodged, and therefore no money has been paid out.

The Hon. R. A. Geddes: That is for rail concessions?

The Hon. A. F. KNEEBONE: That is for any type of freight. No money has been paid out, because we have not yet had any official claims. As to the state of the country, I am aware that we have had fairly substantial rains in many areas, but I believe the effect of the rains and of the drought situation would be a better subject for comment by the Minister of Agriculture.

The Hon. T. M. CASEY: We could safely say at this stage that practically the whole of South Australia, with the exception of the Murray Mallee, has received good, substantial rains, and while it is too early yet to assess the grain situation we are hopeful of a good grain harvest, depending on rains in August and September.

### PETROL SHORTAGE

The Hon. M. B. DAWKINS: I seek leave to make a short statement before asking a question of the Minister of Lands, representing the Minister of Labour and Industry.

Leave granted.

The Hon. M. B. DAWKINS: My question refers to local government and the use of fuel in the present situation. I understand that some district clerks received, on Sunday or Monday, what they considered to be definite directions to stop the use of any fuel. Yesterday, I believe, the Minister in another place is reported as having given a somewhat different instruction. From discussions with district clerks this morning, I believe there is still some confusion, in their minds at least, as to whether a council is permitted to use limited amounts of fuel if it has reasonable supplies on hand. Will the Minister inquire from his colleague whether steps can be taken to clarify the position for the benefit of the district clerks?

The Hon. A. F. KNEEBONE: I think I could answer the question, but I prefer that the Minister to whom the question is directed should be contacted, and I will bring back an official statement regarding the matter when it is available.

The Hon. G. J. GILFILLAN: I ask leave to make a short statement prior to asking a question of the Chief Secretary.

Leave granted.

The Hon. G. J. GILFILLAN: My question relates to the present fuel crisis. Honourable members are aware of the Bill that passed through Parliament on Monday last. However, over a large area of South Australia it is often difficult for people to get news of what happens in Parliament. There were some reports in the paper on the following day, but they were of a rather limited nature. In many areas people receive only two or three newspapers a week, not taking a newspaper every day. Can the Chief Secretary say whether every effort is being made to have the facts placed before the public through country newspapers and other media throughout the State?

The Hon. A. J. SHARD: Frankly, I do not know what the position is. However, the point is well taken. I will draw it to the attention of the Premier's Department to see whether something cannot be done about it. I do know that the committee appointed by the Government to deal with fuel supplies met this morning. I expect some public announcement to be made later this afternoon. I will see whether the honourable member's point cannot be elaborated on, particularly in the country areas.

The Hon. M. B. DAWKINS: I seek leave to make a brief statement prior to asking a question of the Minister of Lands, representing the Minister of Labour and Industry.

Leave granted.

The Hon. M. B. DAWKINS: My question, too, refers to the present lack of fuel. In the press release which was made available to honourable members yesterday by the Minister of Labour and Industry and also, I believe, published in the press this morning, I could see no reference to two categories which seem to me to be vitally concerned about having some access to petrol. One is funeral directors—and I do not think there is any need to elaborate on the need for a limited amount of petrol for them; the other is ministers of religion who, amongst other responsibilities, have to attend to the needs of the sick, and particularly of the dying, which duties must go on in any case. Will the Minister give attention to recognizing the needs of these two categories so that their work may continue?

The Hon. A. F. KNEEBONE: A committee is sitting continually on these matters. I am aware that some variations and modifications have already been made in some directions. However, to make sure that the matters raised by the honourable member are considered by the committee, I will refer his question to it so that it may be considered.

## MOTOR CYCLISTS

The Hon. M. B. CAMERON: I seek leave to make a short statement prior to asking a question of the Minister of Lands, representing the Minister of Roads and Transport.

Leave granted.

The Hon. M. B. CAMERON: I read a report recently that in New South Wales the Government has been experimenting with the idea of making it compulsory for motor cyclists to leave their lights on during daylight hours. The initial experiment, I understand, has been with the police motor cyclists, to see whether or not the accident rate is reduced in this category. Will that experiment be taken heed of in this State or shall we conduct a similar experiment here, because motor cyclists lack protection if they are involved in accidents with other vehicles on the road?

The Hon. A. F. KNEEBONE: I am sure my colleague will be watching these matters and noting the results of such experiment, examination or inquiry. However, I will refer the honourable member's question to my colleague and see that these matters are brought to his attention and noted.

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## LEAVE OF ABSENCE: HON. H. K. KEMP

The Hon. R. C. DeGARIS (Leader of the Opposition) moved:

That one month's leave of absence be granted to the Hon. H. K. Kemp on account of ill-health.

Motion carried.

## ADDRESS IN REPLY

Adjourned debate on motion for adoption.

(Continued from August 1. Page 398.)

The Hon. JESSIE COOPER (Central No. 2): I would like to add my good wishes to those already expressed in this debate to His Excellency Sir Mark Oliphant. As I was abroad when His Excellency was sworn in as Governor, the opening of Parliament on July

18 was actually the first glimpse I had of this representative of the Queen, and I can well imagine how readily he has been received by the people of his native South Australia.

I, too, wish to express my sadness at the death of so many distinguished colleagues. I remember many happy instances of friendship given and received, but in all our memories no-one is more grievously mourned than that gallant man Sir James Harrison, who, despite great physical pain and discomfort, served this State steadfastly to the end. In memory, I quote the following passage from *Pilgrim's Progress*:

"Then," said he, "I am going to my Fathers; and though with great difficulty I am got hither, yet now I do not repent me of all the trouble I have been at to arrive where I am. My sword I give to him that shall succeed me in my pilgrimage, and my courage and skill to him that can get it. My marks and scars I carry with me, to be a witness for me that I have fought His battles, who now will be my rewarder." So he passed over, and all the trumpets sounded for him on the other side.

Paragraph 8 of His Excellency's Speech states:

A plan for the conversion of Public Service operations to the metric system has been drawn up by the Metric Measurements Advisory Committee in conjunction with Government departments. My Government approved of the plan, and conversion programmes have commenced in all departments and should be completed by the end of 1976. The legislative programme of metric conversion amendments is extensive and my Government has instructed departments that, wherever possible, all new and amending legislation introduced into Parliament should be expressed in metric terms. My Government's policy in this matter is simply that the obligations, in law, placed on the public as a result of conversion should not be more extensive than they were before conversion.

The last sentence in that paragraph is highly commendable and most desirable. It is to be hoped that the Government will be able to enforce that point of view. From what one has read in the press and from numerous reports emanating from committees considering metrication in the community, it would seem that there are some organizations whose aim it is to take this opportunity to have a wide range of alterations made in the laws of the land; and those alterations are not strictly associated with the change to metric measurement. The standards associations and the many organizations connected with drugs, foods, weights and measures, etc., throughout Australia seem to be bent on incorporating in the new legislation their pet ideas on what industry and the people of Australia should accept. I therefore say that the Government's policy (that the obligations, in law, placed on the public as a result of conversion should not be extensive) is to be highly commended.

Paragraph 9 of the Speech states, in part:

My Government has announced that a new town of some considerable size will be established in the vicinity of Murray Bridge and a further measure relating to this new town will be placed before you this session.

I should like to sound a warning to the Government on this matter: if the reason for building a new town near Murray Bridge is a political one, the outcome will be on the Government's own head; but if the object is to improve the social and commercial structure of South Australia, I draw attention to the following facts. Murray Bridge has an average annual rainfall of less than 13½in. (13.44in., to be exact), which is too little for the growing of any economic crop with certainty of success, unless the Government envisages a flourishing date palm plantation, which I must say would be very pleasant pictorially—not that I believe that this project was meant to be anything but an industrial cum dairy farming centre. However, I say sincerely that centres of large population are never happy places unless there is sufficient natural rainfall to keep them fresh, clean and green. The answer will be given, I have no doubt, that, as the site is on the Murray River, irrigation will provide it with all that is required.

The peculiar disadvantage of relying solely on irrigation in the lower part of the Murray is that the river is subject to heavy salination in bad years. The situation will become even worse in the future if South Australia's only water supply in drought years is a trickle of waste product that will arrive here after Victoria has had the first cut of all Upper Murray water supplies. No disaster could be greater in this concept than for a large new township to lose all its greenness and be reduced to dust in Australia's next big drought. Towns in desert or arid areas (the fact that the Murray flows through does not alter the semi-arid country surrounding the township) never make good living places. I suggest that the Government think again, with a view to finding a new centre for population in a more beneficent climate, perhaps a little farther south-east of Murray Bridge but still adjacent to the interstate railway system. Paragraph 9 of the Speech also states:

During this session amendments will be proposed to the Planning and Development Act to provide for a scheme of interim control over the development of the area comprised in the city of Adelaide and its immediate environs.

I hope that the Government will recognize that in much of Australia the price of land for the people's housing requirements is becoming prohibitive, largely because of the restrictions on development and land usage being made by innumerable planning and governmental authorities. The term "long-term planning" is frequently only a euphemism for slow thinking and slow planning. In my own long-term view, there is great danger in making building land so rare and expensive that the ordinary person cannot contemplate investing in it or owning his own house. Many of these restrictions seem to be only in the interests of water and sewerage authorities or of those who already have heavy investments in inner metropolitan property. Paragraph 12 of the Speech states, in part:

My Government has already announced its intention to proceed with the sealing of the Eyre Highway to the State border.

I have heard these words reiterated *ad nauseam*. Perhaps we could have a statement from the Government about when it contemplates that this operation will be completed. We trust that the work will be carried out all the way to the border before this end of the highway dies of old age. At paragraph 15 of his Speech, His Excellency says:

Planning for the proposed integrated 710-bed hospital and medical school to be known as the Flinders Medical Centre has progressed rapidly during the past year. The Public Works Standing Committee has approved the whole scheme in principle and has authorized detailed planning of the first three phases, to provide 550 hospital beds and the medical school, at an estimated cost of $33,000,000, based on prices prevailing in July, 1971.

I find that paragraph ominously vague. I know that the Flinders Medical Centre is a project dear to the Minister's heart. It has, in fact, been a matter of great interest to me, as I was on the Council of Flinders University from 1966 to 1970 and was, therefore, associated with all the early discussions and promises. On reading this paragraph carefully, I find that planning for the Flinders Medical Centre has progressed rapidly during the past year—but it is only planning after all.

The Hon. A. J. Shard: Can I allay your fears? The first contract has been signed and work is proceeding. Does that help you?

The Hon. JESSIE COOPER: Yes, but I continue to say what I have said.

The Hon. D. H. L. Banfield: This alters the argument a bit!

The Hon. JESSIE COOPER: I do not think it does. We are told that the Public Works Committee has approved of the whole scheme in principle. Good grief! I thought this whole scheme was approved in principle six years ago.

The Hon. A. J. Shard: Not by the Public Works Committee.

The Hon. JESSIE COOPER: No. Next, we see that the Public Works Committee has authorized detailed planning of the first three phases. It is a mystery to me how anyone could find it worth while to include the figure of an estimated $33,000,000 based on prices prevailing in July, 1971. Why can we not at least be up to date in our wild estimates? But, in any case, at the present rate of progress, the actual building could be any number of years ahead at an increased cost of probably more than 10 per cent a year.

The Hon. D. H. L. Banfield: Put a Commonwealth Labor Government in and inflation would drop overnight.

The Hon. JESSIE COOPER: So the honourable member hopes. Let us be very cautious and assume that this hospital will in fact cost only about twice as much as the figure put before honourable members—say, a round $70,000,000.

The Hon. A. J. Shard: Can I help you further?

The PRESIDENT: Order! Honourable members will address the Chair.

The Hon. JESSIE COOPER: I apologize, Sir. I now turn to paragraph 18 of His Excellency's Speech, which refers to work at the Outer Harbour and the Port River. I draw the Government's attention to the great disadvantage being suffered by South Australian industry because so many ships are refusing to use Outer Harbour or Port Adelaide for cargo handling. Indeed, the situation has been reached where Adelaide's main port is really Port Melbourne, 500 miles away from our manufacturing centres. This is becoming a gross liability on our export trade. The Government should do everything in its power to increase the handling facilities at Port Adelaide and Outer Harbour and to control the charges for the use of port facilities, including tug charges. South Australian industry cannot be expected to compete effectively in the export markets of the world, with the enormous, high freight rates required from this part of the world, unless every effort is made to reduce all costs and handling charges in the areas over which we have some influence.

I note in paragraph 19 of His Excellency's Speech that capital expenditure on Government buildings other than hospitals will amount

to about $8,450,000. I hope that the Government will speed up the provision of modern office accommodation for the staff members of this Parliament and, dare I add, for the members of this Chamber, who have suffered archaic conditions for too long.

Finally, I see in paragraph 17 of His Excellency's Speech that the trunk main and major pumping stations on the Tailem Bend to Keith main have been completed and that the remainder of the branch lines will be completed before the end of this year. As it is customary to have opening ceremonies for major-scale works, I would consider it gracious of the Government if it invited Sir Thomas Playford to perform this ceremony. He would undoubtedly be delighted to see the completion of the work, which he inaugurated during the latter part of his Premiership. With this happy thought, I end my support for the motion.

Motion carried.

## CRIMINAL LAW CONSOLIDATION ACT AMENDMENT BILL (HOMOSEXUALITY)

Second reading.

The Hon. C. M. HILL (Central No. 2): I move:

*That this Bill be now read a second time.*

I suppose most honourable members received from a group of people calling themselves the Moral Freedom Committee and Association a letter dated June 21, 1972, in which an appeal was made for a member of Parliament to offer to bring forward a Bill and so introduce social reform to relax the laws applying to homosexual acts. The letter claimed that the Legislature in South Australia was still equating the sphere of crime with sin, and that the Duncan inquest once again illustrated the persecution to which minority groups were subjected.

Earlier this year I heard debates on the effects of reform of this kind in England. I discussed the subject there with Parliamentarians and others. Honourable members will be aware that in England in 1967 the criminal sanctions against homosexual acts in private between consenting adult males were repealed. As a result of receiving the letter, and as a result of deep concern regarding the recent death of Dr. Duncan, and for another important reason, too, I decided to introduce this Bill.

The last reason is simply that I represent the interests of people. I have stood up in this Chamber from time to time and made that claim. People come before all other "interests". In this issue, I am confronted with a minority of people whose cause to change the law here, as it was changed in England, is just and right. Irrespective of the severe personal criticism that I know will come from some members of the public, I cannot justify my claim to represent "people" if I turn my back on this minority.

I believe the days are gone when politicians should talk platitudes and seek popularity and office by reference only to those matters which do not offend. Nothing must be beyond question and discussion, and all people have a right to expect their anguish and concern in all issues to be raised in the Legislature.

The Bill before honourable members is a short Bill and provides that certain homosexual acts between consenting males, of 21 years and over, and in private, shall no longer be offences under the criminal law. The age of 21 years may raise some queries, in view of the age of majority in this State now being 18 years. The Bill may err on the side of caution in this respect, but I believe 21 years to be the better age. The Bill follows the major change regarding homosexuality in the English Sexual Offences Act, 1967.

Many who study this subject deeply challenge the wisdom of the present law on homosexuality and the general beliefs held by the public about the subject. Such experts have reached advanced and deep understanding of the psychological nature of the condition of homosexuality. The views of such professional men and women are extremely important, especially because of the ignorance and prejudice of which one hears so much and also because of the sincere wish of many people to understand more about this social problem.

The primary purpose of the imposition of criminal sanctions against homosexual acts is to enforce the wish of society that these practices be curbed, and, in particular, to protect minors from any ill effects which might stem from the existence of homosexuality within the community.

There is now much reason to believe that the psychological nature of the condition of homosexuality is such that the threat of criminal sanctions is not an appropriate means of controlling the behaviours in question. (Conversely, there is reason to believe that the bad effects on the community stemming from the existence of the sanctions are considerable.)

Some fear removal of these sanctions might lead to even worse effects. It has been suggested that homosexual practices among

existing homosexuals may become more common, that attacks upon, or seduction of, minors may increase, and, in general, that influences tending to turn people into homosexuals may become stronger.

These fears are based primarily on a failure to understand the nature of homosexuality. J. F. Fishman, writing *Sex in Prison, Revealing Sex Conditions in American Prisons*, points out that, although under conditions of sexual privation (for example, in prison) men may turn to homosexual practices as a form of relief, most homosexual acts are carried out by people whose sexual misidentification has its origin very early in life. Some (for example, F. J. Kallman), argue on the basis of the study of identical and fraternal twins that the cause is genetic, but the majority of researchers agree that environmental factors have a very strong influence.

However, the evidence does not suggest that association with homosexuals is one of these factors; rather it suggests, according to W. McCord and other authorities, such factors as absence or ineffectiveness of the father, parental prudishness leading to fear or anxiety about interactions with females, and either a positive or negative domination by the mother. These sorts of socialization factors operate at very early ages on the developing personality, and, in general, it appears that the child is oriented in the direction of homosexuality long before contact with, or understanding of, adult homosexuality is likely.

T. C. N. Gibbens compared Borstal boys with and without known homosexual tendencies, and found that the same proportion of the two groups reported that they had at some stage been faced with attempted seduction, or been "interfered with", by adults. This and much other evidence suggests that even if homosexuals are made rather than born they are not made by other homosexuals.

Indeed, it is important to recognize that an aversion to sexual interaction with females is almost certainly a stronger component in homosexuality than is an attraction to males. Given the role of anxiety in the development of the condition, it is possible that self-identification as a criminal, following interaction with a homosexual, might strengthen homosexual tendencies, or at least reduce the likelihood that the individual would seek or respond to assistance towards conformity with community standards.

These observations suggest that it is unlikely that abrogation of the law against homosexual practices between consenting adults would increase the likelihood of heterosexual persons becoming homosexual through contact with homosexuals. They do not counter the suggestion that removal of legal sanctions would increase the possibility that persons with tendencies towards homosexuality would follow these through.

However, it is reasonable to estimate that between 4 per cent and 7 per cent of the male population are active homosexuals. This is the view of A. C. Kinsey in *Sexual Behaviour in the Human Male* and, given the size of the Police Force and the difficulty of detecting the offence, it is unlikely that fear of detection and punishment would act as a deterrent. It might be thought that the existence of the law would reinforce feelings of moral repugnance and guilt about this type of behaviour.

In fact, according to Sears, psychological evidence suggests that bringing the guilt mechanism into operation depends on a warm personal relationship with the rule-giver. Jane McKinnon makes the point that it appears, in fact, that female homosexuals, whose activities are not interdicted by the law, suffer from guilt and shame about their activities to about the same extent as do male homosexuals.

Another approach to these questions would be to ask what has happened in countries where the legal situation resembles, or is more libertarian than, the one proposed. Although there is little information about the frequency of homosexual practices, there is nothing that need alarm us. For instance, although Belgium has made no distinction between heterosexual and homosexual offences since the early nineteenth century, there are no indications of widespread homosexual practices from that country.

France has had, over the same period, an essentially similar set of laws, yet that country could hardly be said to have become a by-word for homosexuality; rather the contrary. In fact, the prevalence of homosexuality seems to be remarkably independent of the state of the law.

With regard to the fear that some people have about the possibility of homosexual attacks on children, L. Radzinowicz in *The State of the Law—Sexual Offences* submits that it can be said that homosexuals, in general, display the same contempt for paedophilia as do heterosexuals; and that paedophiliacs are in fact a category of persons distinct psychologically from homosexuals. It should be pointed out that the proposed change in the law does not affect the laws related to child molestation.

Turning now to the negative effects of the current law, it is clear that imprisoning homosexuals is unlikely to cause them to change, especially when, as D. E. Clemmer in *The Prison Community* points out, it is realized that prisons induce homosexual behaviour even in persons not psychologically inclined in that direction. In fact, the worst effects that stem from legal proscription are not those of the directly applied penalties but those that result from the rejections by society consequent on conviction and from the injustices inevitable in the application of a law that can be enforced only relatively infrequently, and hence discriminatively.

Another set of problems arises from the homosexual's awareness that he is habitually in defiance of the law, and from the awareness that others may have of that fact. Thus, homosexuals are very open to blackmail, both by other homosexuals and others. They are often fired from their jobs when their employers discover their tendencies, even though these tendencies may not be related to their work. Such dismissal would not be so easy if they were not in defiance of the law.

Even the homosexual who wishes to change in order to conform to the norms of society must resent it when that society demonstrates in its attitude and ordinances towards him a total failure to comprehend him and his adjustment difficulties. Such resentment must be expected to reduce his motivation and, indeed, his ability to conform.

There is growing evidence, substantiated by N. J. de V. Mather and many others, that homosexuals strongly and positively motivated to change into conformity with the norms of society may be helped to do so. However, this is unlikely to be successful if the patient is resentful of his situation, and almost certain to fail if the patient is motivated by fear of punishment.

However, one must look further than such views and conclusions of scientists and researchers when one considers major social change. The most important inquiry into homosexuality in relatively recent times has been the British Wolfenden inquiry, and I commend the Wolfenden report to those honourable members who may wish to study this subject in depth. My submissions today deal at length with that report's findings and the subsequent legislation and Parliamentary debates that followed throughout the decade 1957 to 1967. I have no reason to suspect that, generally speaking, social circumstances and conditions in South Australia are different from those existing in England at the time of the Wolfenden inquiry.

The Wolfenden report was a report of the departmental committee in England, appointed on August 24, 1954, on Homosexual Offences and Prostitution (known as the Wolfenden committee, after its Chairman, Sir John Wolfenden) and was published on September 4, 1957. The Wolfenden committee recommended *inter alia* that homosexual behaviour between consenting adults in private should no longer be a criminal offence.

The function of the law in matters of moral conduct, the reports suggested, was "to preserve public order and decency, to protect the citizen from what is offensive or injurious, and to provide sufficient safeguards against exploitation and corruption of others, particularly those who are specially vulnerable because they are young, weak in body or mind, inexperienced, or in a state of special physical, official, or economic dependence."

The report continued: "It is not, in our view, the function of the law to intervene in the private lives of citizens, or to seek to impose any particular pattern of behaviour further than is necessary to carry out the purposes we have outlined. It follows that we do not believe it to be a function of the law to attempt to cover all the fields of sexual behaviour. Certain forms of sexual behaviour are regarded by many as sinful, morally wrong, or objectionable for reasons of conscience, or of religious or cultural tradition; and such actions may be reprobated on these grounds. But the criminal law does not cover all such actions at the present time; for instance, adultery and fornication are not offences for which a person can be punished by the criminal law."

The committee found evidence for the view that there were varying degrees of homosexual propensity. This indicated, in their opinion, that homosexuals could not be regarded as quite separate from the rest of mankind; it also had implications for possible treatment. Distinguishing between active and latent homosexuality, the report observed that "among those who work with notable success in occupations which call for service to others, there are some in whom a latent homosexuality provides the motivation for activities of the greatest value to society."

The committee dismissed the concept of homosexuality as a disease, with the implication that the sufferer could not help it and therefore carried a diminished responsibility

for his actions. It was often the only symptom, being associated with full mental health in other respects, while alleged psychopathological causes had been found to occur in others besides the homosexual. It had been suggested to the committee that associated psychiatric abnormalities were less prominent, or even absent, in countries where the homosexual was regarded with more tolerance.

Discounting the widely-held belief that homosexuality was peculiar to particular professions or classes or to the "intelligentsia", the report pointed out that the evidence showed that it existed among all callings and classes and among persons of all levels of intelligence. Its incidence, the committee said, among a population of more than 18,000,000 adult males, however, must be large enough to constitute a serious problem.

The report examined and dismissed a number of arguments against legalizing adult acts in private, its conclusions being as follows: (1) There was no evidence for the view that such conduct was the cause of the "demoralization and decay of civilizations", although like other forms of debauch it might unfit men for certain forms of employment. (2) There was no reason to believe that such behaviour inflicted any greater damage on family life than adultery, fornication, or Lesbianism. (3) The evidence indicated that the fear that legalization of homosexual acts between adults would lead to similar acts with boys had not sufficient substance to justify the treatment of adult homosexual behaviour in private as a criminal offence; on the contrary, the evidence suggested that such a change in the law would be more likely to protect boys than to endanger them.

The committee accepted the evidence of expert witnesses that there were two recognizably different categories among adult male homosexuals—those who sought adult partners, and paedophiliacs who sought as partners boys who had not reached puberty. The latter category would continue to be liable to the sanction of the criminal law. (4) The committee did not share the fear that such a change in the law would lead to "unbridled licence", as the law seemed to make little difference to the amount of homosexual behaviour which actually occurred.

The report continued: "Unless a deliberate attempt is made by society, acting through the agency of the law, to equate the sphere of crime with that of sin, there must remain a realm of private morality and immorality which is, in brief and crude terms, not the law's business. To say this is not to condone or encourage private immorality. On the contrary, to emphasize the personal and private nature of moral or immoral conduct is to emphasize the personal and private responsibility of the individual for his own actions, and that is a responsibility which a mature agent can properly be expected to carry for himself without a threat of punishment from the law. We accordingly recommend that homosexual behaviour between consenting adults in private should no longer be a criminal offence."

The majority of the committee agreed (and I point out that this was in 1957) that an adult for the purposes of their recommendation should be a person of 21, although a minority considered that the age should be fixed at 18.

The Wolfenden report was debated in the House of Lords in 1957. The Archbishop of Canterbury (Lord Fisher) said that the report was right in saying that, while the law should protect and control those under 21 and protect unwilling people over that age, homosexuality between consenting adults in private should not come within the ambit of the law. There was one great benefit in obeying that principle. He had reason to believe that often great pressure was put on a consenting adult to continue when, if left to himself, he would like to get free.

He had heard of a young man who wished to get free being pursued by his partner from Australia to Britain, and so brought back into the practice. Another young man, half wishing to get free of the habit, was recommended to fresh partners when he moved from the provinces to London, and later when he went overseas. There were "groups of clubs of homosexuals with an organization of their own and a language of their own, a kind of freemasonry of their own, from which it is not at all easy to escape."

The Archbishop continued: "So long as homosexual offences between consenting adults are criminal and punishable by law, this pressure will mount and homosexualism will remain. It has all the glamour and romance of chosen and select rebels against the conventions of society and the forces of the law. At the heart of this kind of freemasonry are men of passionate sincerity who are made strongly homosexual by nature, who believe that what is wrong for others is right for them, and that society is not merely hostile but unjust and cruel. Into this kind of nightmare world there can be no entrance for the forces of righteousness until the offences are

made no longer criminal, so there is no longer a question of betraying companions to criminal offences. At once the free air of normal morality will begin to circulate."

He further thought that those involved would be set free to talk without giving anyone away to the law; they would seek advice and would be free to seek protection by the police from molestation by their former companions. It would be all the more easy to convince them of the restraints of common sense and Christian morality when they were "delivered from the feats, the glamour, and even the crusading spirit of the rebel against law and convention."

The Sexual Offences Bill, a private member's measure introduced in the House of Commons on July 5, 1966, by Mr. Leo Abse, implemented the recommendation of 1957 by the Wolfenden committee that homosexual behaviour between consenting adults in private should no longer be a criminal offence. The Bill, which was enacted on July 27, 1967, had been preceded during the previous two years by a series of unsuccessful attempts in both Houses of the British Parliament to place similar legislation on the Statute Book.

The Earl of Arran on May 24, 1965, moved the second reading of a private member's Bill which simply sought to legalize homosexual acts in private between consenting adults in accordance with the recommendation of the Wolfenden report. The Bill passed, but then lapsed with the prorogation of the Parliamentary session. Meanwhile, on May 26, 1965, Mr. Abse tried to introduce a private member's Bill in the House of Commons. Mr. Abse's motion to introduce the Bill was defeated on a free vote.

During the Parliamentary session immediately preceding the general election of March, 1966, Mr. Humphry Berkeley, M.P., introduced in the House of Commons a measure in almost identical terms to that of Lord Arran. This passed the second reading stage on a free vote on February 11, 1966, but failed to make any further progress before the dissolution.

Mr. Berkeley's attempt was the last to be made in the House of Commons before the introduction of Mr. Abse's Bill on July 5, 1966, but in the House of Lords a second version of Lord Arran's Bill was given a second reading on May 10, and it was passed. However, in view of the successful introduction of Mr. Abse's Bill in the House of Commons it was allowed to lapse.

Mr. Abse, in moving his successful measure, declared that only those who were "wilfully blind" could say that it condoned or approved of homosexual practices, or would tolerate any act of indecency against a youngster or a public display of homosexual conduct. No member suggested that the House approved of adultery, fornication, or Lesbianism merely because they were not listed as crimes.

Mr. Abse believed that the present law was both unjust and unenforceable. The Home Office had suggested that there were about 500,000 homosexuals in the country, although evidence given to the Wolfenden committee put the figure at about 750,000. What could be said with certainty, however, was that millions of criminal acts were committed every year, leading to the absurd situation that, with the exception of motorists, homosexuals comprised the largest category of offenders in the land.

Having denied that the law was a deterrent, Mr. Abse called it a "blackmailer's charter" and an "invitation to hoodlums", the effects of which could not be prevented by even the most sympathetic administrative action. Of the total number of cases of blackmail reviewed over a period of three years by the Wolfenden committee, about half were shown to have had some connection with homosexuality.

Most homosexuals, because of their condition, were permanently denied the blessings of family life and of parenthood, but the present law, by preventing their integration into the community and by branding them as criminals and outlaws, intensified their inherent isolation and too often caused them to react by succumbing to anti-social attitudes.

It was not surprising, therefore, (Mr. Abse continued) that the Church Assembly, the Church of England Moral Welfare Council, the Roman Catholic Advisory Committee on Homosexuality, and the Methodist and Unitarian Churches had all called for the implementation of the Wolfenden report.

During the English Parliamentary debates, the views of churches and church leaders were expressed. The Lord Bishop of London said on July 13, 1967, in the House of Lords, "My Lords, I rise on behalf of many of my brethren in this part of your Lordships' House to reaffirm, very briefly, the support which we gave to the principles of this Bill when it was before the House on a previous occasion. In so doing we do not condone homosexual practices; nor do we regard them as in any way less sinful. But in supporting the Bill we are concerned mainly for the reformation and recovery, if it can be, of those who have become the victims of homosexual practices.

The fact that the law as it stands is difficult to enforce, and leads so often to blackmail, frequently results in those who need spiritual and psychiatric help being reluctant to reveal themselves in order to obtain that help. It is our hope that if this Bill becomes law we shall be able to bring to more people the help, guidance, and reformation which they need and which we believe it to be our duty to make possible for them."

On the same day, Lord Soper spoke of the attitude of the free churches. He said *inter alia,* "My Lords, one of the great effects, it seems to me, of the protracted debates in another place and here on this topic has been the tendency at least to educate in many fields where before there was little but ignorance and prejudice. It may well be, as the last speaker has said, that this has tended in some cases to produce a coarsening of thought. But on the whole the evidence I would bring from the free churches is that the process has been to the good, and that since this question first appeared in headlines, this process within the free churches has led to an almost total unanimity, so far as it is expressed in their affairs, that on the whole this Bill ought to be supported, and that in general it clarifies and expresses quite important moral issues."

Then he argued further and said, "But it would not be for me to deploy these arguments again, except to say—and in this respect I can speak for the free churches in this country—that I support this Bill on their behalf and believe that it represents a necessary change in the law."

I now quote at length from the speech of the Archbishop of Canterbury (Lord Fisher) in the debate on the Wolfenden report in the House of Lords on December 4, 1957; it was an extremely worthwhile contribution to the general debate on this subject. He said:

I do not intend to speak from any particular Christian grounds; I assume only the generally accepted beliefs of theists, and, indeed, of every reasonable and responsible citizen. This report has already accomplished two great things, one deliberately and one by accident. It has compelled people to think about and compare the sphere of crime and the sphere of sin, in the sense of an offence against the general moral standards of the community, and it is all I ask for in using the word "sin". Of course, the two spheres overlap, but they are not coterminous, and it is of real importance for the national well-being that the difference between the two should be clearly understood, both as to the moral grounds they respectively cover and as to the sanctions on which the two spheres respectively rest.

One of my correspondents boldly writes to me, "So far as possible, every sin should be declared a crime"—which is precisely the belief of the totalitarian state, which defines its own sense of sin and then makes it a crime. I am afraid that there is a very common belief that only crimes are sins and that the not illegal is therefore lawful and right. That such a belief should continue is a very dangerous thing. There is a phrase *pro salute animae et pro reformatione morum.* The State and the law are not concerned directly, as the church is, with saving the souls of men from their own destruction. The right to decide one's own moral code and obey it, even to a man's own hurt, is a fundamental right of man, given him by God and to be strictly respected by society and the criminal code.

I believe that it is of vital importance to maintain this principle against the law and against society. Indeed, it may at any time feel compelled to invoke the law against some organ of publicity which in one way or another so intrudes a moral code of its own, and so employs the powers of publicity and suggestion, as almost to impose that code upon society; and at least the private rights of a citizen so to choose his own moralities and protect his own privacies against some forms of publicity must not be allowed to be outraged.

The State becomes concerned only when for the general good, for the protection of those who need protection, or for the promotion of a healthy community life—*pro reformatione morum*—it ought to act. Of course, in this sphere there will always be special and borderline cases. As an example of a special case, there is the protection of the young, or the need to discourage suicide and suicide pacts. Such cases create especial problems and justify interference with private rights. And there are also the borderline cases, and homosexual offences may come under this category.

In general, however, a sin is not made a crime until it becomes a cause of public offence, although it remains a sin whether or not it be a crime. That is obvious enough but great numbers of people, having lost the sense of sin, have lost sight of this distinction, and it is most valuable that this report should cast the limelight once more upon it. Secondly, although the report refuses to consider it, it must make people think about the differences between what is natural and what is unnatural. There is a great general moral indignation against homosexual sins because they are unnatural. There is a queer lack of general moral indignation against heterosexual sins, fornication and adultery, because they are supposed to be natural, and therefore, in some sense, less wrong.

There is here a serious and now very dangerous confusion of thought . . . What is thus unnatural is bad and must be disciplined; but much of what is natural, if left to itself, is equally bad and must no less be disciplined. Both homosexual and heterosexual sins or vices may become something more than private; then they raise questions of public morality, though I would say that they do not necessarily raise them equally. For in my judgment the threat to general public moral standards from homosexual offences done in private is far less, and far less widespread,

than the damage openly done to public morality and domestic health by fornication and adultery . . .

I know many people have grave hesitation about this recommendation. They think it will lead to an increase in offences. Their information may be different from mine, and it is not at all easy to be dogmatic; but, like the Church Assembly itself, I feel that if there is a doubt the risk should be taken . . . I wholly accept the principle that consenting adults in private, whether the offences be homosexual or heterosexual, should not come under the law."

Turning to the position in South Australia, I believe there is now a tolerance and understanding of the problems confronting homosexuals that were not apparent until recently. These problems have been highlighted by the recent Duncan inquest and by considerable publicity through the various media. The greatest contribution that can be made to help is for society itself to be compassionate and willing to consider the opposite viewpoint and indeed willing, in many cases, to help such people. The Legislature has a clear duty to show some leadership in the formulation of community attitudes.

By introducing the change proposed in the Bill, the Legislature is not condoning the behaviour, nor wishing that society should condone it, but is laying down the principle that, like other sins such as adultery, fornication, homosexual acts between women, the sin of homosexual acts between adult males in private is not a criminal offence.

Once the "criminal" stigma is removed, the community may change its attitude to the people carrying out these acts, so that, while the behaviour is deplorable, an appropriately sympathetic community attitude will prevail towards the homosexual himself. However, if some honourable members believe that community attitudes are what we should reflect, rather than endeavour to influence and improve, then the difficulties confronting the male homosexual can be considered from the viewpoint of the minority directly concerned.

The voice of minority groups should always be heard within the Legislature. Particularly does this apply within a Second Chamber, away from the Party discipline of the Lower House. Some have already shown appreciation that the Council will debate this issue, in the first instance. For example, one correspondent has written, "May I add that your action is serving to enhance the reputation of the Legislative Council and proves that the Council still has a vital and continuing role to play in the public life of this State." The problems confronting these people are undeniable.

For example, I refer to the death of Dr. Duncan, I point out that the coroner's report thereon is a public document dated July 5, 1972. It was printed in the daily press. The coroner found that the deceased was George Ian Ogilvie Duncan, aged 41 years, Doctor of Philosophy and Lecturer of Law at the University of Adelaide, late of "Lincoln House", 45 Brougham Place, North Adelaide. The coroner found that he died shortly after 11 p.m. on May 10, 1972, in the Torrens River, Adelaide. The coroner said, "The cause of his death was drowning due to violence on the part of persons of whose identity there is no evidence." In the course of the report the coroner said, "Dr. Duncan was a homosexual." The coroner mentioned in his report that a Mr. X, who came forward and gave evidence, was on the bank of the river, overlooking the place where Dr. Duncan was thrown into the water, and Mr. X was seized there by two men and flung down concrete steps into the river. He incurred some injuries.

The coroner then mentioned another witness, Mr. James. He said that Mr. James was sitting on a seat on the river bank and four men appeared on the scene, one of whom turned out to be Dr. Duncan. The coroner said, "Mr. James thought the sound of approaching footsteps were like those of a person walking downhill or being forced along. At post-mortem, bruises as from fingers were found on the inside of each of Dr. Duncan's upper arms, indicating that he was being forced along by two men on each side. When the four men were close to Mr. James, Dr. Duncan was thrown down the bank into the river." The coroner then said that Mr. James was then seized by two of the men. The coroner said, "He resisted, received a blow on the head and he also was thrown into the river." Mr. James sustained a broken ankle.

I have referred to these points in the coroner's report because they show that here in Adelaide a homosexual died and other persons suffered cruelty and violence.

How many people would be affected directly by this law? It is impossible to say with accuracy. Kinsey claims that between 4 per cent and 7 per cent of the male population are active homosexuals. Bryan Magee, writing in *One in Twenty*, obviously fixes the figure at 5 per cent. Using the 4 per cent figure, the estimated male population in this State in 1969 from the *South Australian Year Book*, and making a deduction for minors, the figure would be about 14,000

active male adult homosexuals in South Australia. What proportion of these would live privately, I do not know.

I must add that active homosexuals who have contacted me since I indicated my intention to introduce this measure have surprised me by their estimates, which I have no reason to disbelieve, on the number of men working within the city of Adelaide in various shops, offices and commercial establishments who live in this way in their private lives; their estimates exceed my calculation of 14,000.

In South Australia, there is support for this proposal. In the *Advertiser* of February 17, 1972, appeared an article that said, "Church leaders in Adelaide believe it should be legal for consenting couples to practice homosexual acts." The Bishop of Adelaide (Dr. T. T. Reed), whilst strongly condemning the sin and requiring enforcement of the law to prevent corruption of other people, said he would not object to the law allowing acts of homosexuality in private between consenting adults.

The Reverend Michael Sawyer, Executive Minister of the Congregational Union of South Australia, said he would like to see the law changed because he was concerned that it left homosexuals open to the danger of blackmail. He said, "I know an instance of a clear case of blackmail, and other instances where homosexuals would not seek treatment because of their fear that what they were doing was illegal." The Assistant Minister of Scots Church said he was strongly in favour of the United Kingdom law allowing acts of homosexuality in private between consenting persons.

The *Sunday Mail* of June 24, 1972, dealt with the death of Dr. Duncan and the subject generally. A reporter, Mr. Greg Walker, said, "Earlier this year a homosexual awaiting trial hanged himself in gaol rather than face that humiliation and disgrace of being revealed in court as a 'queer'. A leading official of the local branch of C.A.M.P. Inc. told me this week that he knew of four homosexuals who had committed suicide over the past three years rather than face the law courts."

The *Advertiser* of Saturday, July 1, 1972, carried a leader headed "Legalize homosexuality"; part of the leader states: "The argument in favour of legalizing homosexual acts in private between consenting males is quite clear cut. Put simply, such acts harm no-one and offend no-one, and the law has no right to intervene in such a situation. To be fair, it should be stated that the law is not rigidly enforced by the police. However, it is objectionable that such a law exists at all. The State has no business in its citizens' bedrooms and the sooner it is completely removed from them the better."

Columnist John Miles, in the *Advertiser* of July 18, 1972, said, "I now think that our attitude of violent prejudice against homosexuals and laws which lead to the hounding of homosexuals do more harm to the whole community than homosexuality."

The recent General Conference of the Methodist Church in Australasia passed the following resolution: "In the light of the fact that Parliament, society and the church do not consider fornication, adultery and Lesbianism as criminal offences, we consider that homosexual acts between consenting male adults should not be proscribed by the criminal law." The Anglical Diocese of Melbourne Social Questions Committee, in its Report on Homosexuality, 1971, says "We therefore recommend that the present provisions of the Victorian Crimes Act, 1958, which render criminal those homosexual acts committed in private between consenting males of 18 years or over, should be repealed."

Indeed, the only real opposition comes from those who deal solely with the religious viewpoint, and it comes from the extreme literist group who provide judgmental attitudes, based upon Biblical passages. I respect these views, but point out that laws made in Biblical times were made according to behaviour in those times, and of course the great advances in medicine and knowledge should now be used to help and understand these people rather than treat them as social outcasts, with moral persecution and social stigma heaped not only upon them but in many cases also upon their families. Further, the whole basis of Christian faith is surely that God forgives, and God is love. The great Christian virtues of compassion, forgiveness and understanding must be pillars of strength in this enlightened age, not simply props to uphold every word written some 2,000 years ago.

Some critics, pursuing a religious submission, consider the "unnatural" aspects of some homosexual acts compared with other sins claimed to be more natural by comparison. Again, I respect these views, which I feel were answered well by Lord Fisher, whom I have already quoted. However, the present Archbishop of Canterbury, Dr. Ramsay, has emphasized the point further. He said in the House of Lords on June 21, 1965, "I think it is extraordinarily hard for any of us to assess the relative

seriousness of sins. When we start doing that we get into questions to which the Almighty himself knows the answers, and we do not. I would say that, comparing the two, homosexual behaviour has an unnaturalness about it which makes it vile. On the other hand, we are encouraged to measure the vileness of sins by the question of motives and personal circumstances. I think that there can be behaviour of a fornicating kind as abominable as homosexual behaviour and as damaging to the community."

Other critics have written me in recent weeks and objected to the proposals in the Bill on the general grounds that the moral fibre of society will be weakened, the incidence of homosexuality will increase, the young will be corrupted and, lastly, that permissiveness will increase to a point of acceptance of such radical social measures and euthanasia. The moral fibre of the community, as far as private behaviour is concerned, is a community attitude made up by the moral conduct of individuals within that society, and the individual's private morals are his own private affair.

As Lord Fisher said, "The right to decide one's own moral code and obey it, even to a man's own hurt, is a fundamental right of man, given him by God, and to be strictly respected by society and the criminal code". The moral fibre of the community, judged by accepted standards of public decency, is another matter entirely, and such accepted standards should be respected and preserved. For this reason, the Bill does not alter the law in regard to homosexual acts in public.

The Wolfenden report stated, and all other qualified authorities believe, that the degree of homosexuality between consenting adults would not increase the incidence of homosexuality within the community, if this change was made, and the same authorities are most emphatic, as far as the expected corruption of youth is concerned, that this just does not happen, and in fact the dangers to youth are lessened if the change takes place.

The last objection, regarding permissiveness and euthanasia, assumes that individuals, the community as a whole, and the Legislature, simply are carried along on a tide of change, and lose their ability to exercise control over the morals and the standards of public decency. Modern education causes the individual to question and discuss all matters in great depth and, rather than breed excessive permissiveness, it causes individuals to question and decry the human weaknesses of prejudice, hypocrisy and double standards generally.

The resultant acceptance of different standards by many people should not necessarily be interpreted as evidence that people have lost control over their moral life. As far as the community as a whole is concerned, the recent successful public outcry against *Oh! Calcutta!* and sex shops is proof that society is not carried along to acquiese with all change.

In England, where, for example, major social change with abortion legislation was followed by change in homosexual legislation similar to that in the Bill before us, the Legislature was later confronted with euthanasia legislation. Rather than being carried along on a tide of general approval to all social change, the House of Lords in March 1969 rejected the Voluntary Euthanasia Bill. Viewed dispassionately, and without emotion, therefore, the argument that people generally in this day and age do not know where to stop cannot be substantiated.

I summarize by saying that this social problem exists within the South Australian community, and those charged with the responsibility of making and changing laws under which that community lives, so that optimum freedom, happiness, and contentment can be enjoyed by all, should not refrain from considering the quality of the relevant law on our Statute Book. Knowledge and experience has reached a level where deep understanding of homosexuality is known. The English experience is a guide which is invaluable in our consideration.

In this State, a challenge has come to our often expressed claims that we, within the nation as a whole, are a tolerant and socially understanding people; that challenge came as a result of the Duncan inquiry and the public discussion that followed. That there are critics of the change is undeniable, but arguments by such critics tend to wilt, I suggest, with the greatest respect, as one studies the subject in depth.

I emphasize my personal view that I do not condone homosexual behaviour. I believe, however, that there is an urgent need for community attitude towards those who are homosexuals to improve. Apart from such improvement which would follow the proposed change, two groups of people whose lives have previously been guilty and frustrated would benefit. I refer, first, to those who commit these acts privately and who cannot be helped by medical or other aid, or who do not wish such aid. These are law-abiding citizens in all other respects except that they infringe the criminal code in this one matter. These people surely are not criminals.

If the law changes, the degree of shame and mental anguish that they suffer will lessen, because they know they will not be breaking the law. Also, the threat of blackmail and moral persecution from others will be greatly lessened, because the victims would be able to come forward and report such threats, without fear of admission of breaking the law themselves. The second group would be those who, wanting release from their present way of life, would come forward and seek discussion, communication, and, most importantly, medical treatment. Under modern psychiatry, if the patient is motivated to be cured, experts say that 30 per cent to 70 per cent of patients show major improvement. Again, most of these people would not voluntarily come forward, because of the fears of blackmail, moral persecution, and of breaking the criminal code.

The Rt. Hon. Earl Jowitt, Lord Chancellor of England from 1945 to 1952, once said that, when he became Attorney-General in 1929, he was impressed with the fact that "a very large percentage of blackmail cases—nearly 90 per cent of them—were cases in which the person blackmailed had been guilty of homosexual practices with an adult person." Mr. Ian Harvey, former British M.P., writing on February 1, 1972, of the British experience after the Sexual Offences Bill, in the *Australian* said, "The homosexual society is and always will be a minority. But it is no longer an oppressed or persecuted minority in the fullest sense. The worst fears of those who opposed the Sexual Offences Bill have not been realized. The moral fibre of the nation has not been undermined. Those who have been given a greater degree of freedom have not abused it or turned it into licence. There have been no public orgies. These are the lessons to be learnt from an Act which was both humane and progressive."

I now deal with the Bill in detail: Clauses 1 and 2 are formal. Clause 3 adds a new section 68a to the principal Act, transposing the portions of section 1 of the English Sexual Offences Act, 1967 as far as they are relevant to the law in this State, and provides that certain homosexual acts between consenting males of 21 years of age and over, in private, shall be offences no longer.

Clause 4 provides that a person commits an offence if he procures, or attempts to procure, the commission of a homosexual act, between two other men, whether or not these men are in fact committing an offence. This is somewhat similar to section 4 of the English legislation.

Clause 5 amends section 70 of the principal Act so that a male person under the age of 21 years cannot be deemed capable of consenting to any indecent assault by another male.

The Hon. V. G. SPRINGETT secured the adjournment of the debate.

## ADDRESS IN REPLY

The PRESIDENT: His Excellency the Governor will be pleased to receive honourable members to present the Address in Reply at 4 o'clock. In view of the time at the moment, I propose to interrupt the business at this stage and ask honourable members to accompany me to Government House to present the Address.

[*Sitting suspended from* 3.43 *to* 4.3 *p.m.*]

The PRESIDENT: I have to inform the Council that, accompanied by the mover and seconder of the Address in Reply to His Excellency the Governor's Opening Speech, and by other honourable members, I proceeded to Government House and there presented to His Excellency the Address adopted by the Council this afternoon, to which His Excellency was pleased to make the following reply:

I thank you for your Address in Reply to the Speech with which I opened the third session of the Fortieth Parliament. I am confident that you will give your best attention to all matters placed before you. I pray for God's blessing upon your deliberations.

## STOCK FOODS ACT AMENDMENT BILL

Second reading.

The Hon. T. M. CASEY (Minister of Agriculture): I move:

*That this Bill be now read a second time.*

Honourable members will be aware that it is common practice to treat grain intended for use as seed with certain herbicides or insecticides to enhance its use as seed. For some time the responsible authorities in this matter have been concerned to ensure that such of these substances as are potentially dangerous to human beings are not available for human consumption, either directly or indirectly as a result of the consumption of the meat of stock that have been fed with treated grain. The form of the legislative scheme arising from this concern will be apparent from an examination of the clauses of this Bill.

Clauses 1 and 2 are formal. Clause 3 amends section 3 of the principal Act, the Stock Foods Act, 1941, as amended by (*a*) removing the limb of the definition of "manufactured stock food" that deals with substances

that are in fact stock medicines, with a view to leaving them to be dealt with under the Stock Medicines Act; and (*b*) inserting a definition of "seed grain" in that section. With respect to the definition of seed grain, I would draw honourable members' attention to the fact that it is rather a restrictive one. Thus, not all grain that is used as seed grain will fall within the definition but only grain that has been treated by a prescribed substance or in a prescribed manner. It follows from the considerations that have given rise to this measure that the prescriptions would generally be confined to substances and methods of treatment that would render the grain potentially unfit for human consumption. Clause 4 amends section 7 of the principal Act and provides for an appropriate regulation-making power. In the nature of things, regulations made under this provision are subject to the scrutiny of this Council. In addition, the maximum penalty for a breach of the regulations has been increased from the equivalent of $40 to $100. This increase in the maximum penalty is, it is felt, consistent with the maximum at present prevailing for offences of the nature envisaged.

Clause 5 amends section 8 of the principal Act, which deals with the duties of sellers of stock food and again provides for a similar increase in penalty. Clause 6 is the operative clause in the Bill and proposes a new section 8a in the principal Act. Briefly, three separate offences are provided for by this section: (*a*) that of feeding seed grain (in the restrictive sense defined) to livestock; (*b*) that of selling or delivering seed grain, as defined, except for the purposes of use as seed; and (*c*) that of mixing seed grain with other grain except for the purposes of using the resultant mixture as seed. The need for the creation of the first two offences is apparent, but it is also felt that considerable dangers can arise from mixing contaminated grain with non-contaminated grain.

It remains to draw attention to proposed new subsections (3) and (5). New subsection (3) casts a burden on the seller or supplier of seed grain, as defined, to satisfy himself that the grain so sold or supplied will be used as seed and seems a reasonable burden in the circumstances of the measure. New subsection (5) in effect absolves persons who deal with seed grain in ignorance of the fact that the grain is in fact seed grain as defined. Clauses 7, 8 and 9 make amendments consequential on the amendments proposed by clause 6, and clause 10 merely brings a citation of an Act up to date.

The Hon. C. R. STORY secured the adjournment of the debate.

## ADJOURNMENT

At 4.9 p.m. the Council adjourned until Tuesday, August 15, at 2.15 p.m.