

The Committee commenced at 10.04 a.m.

The CHAIRMAN: I declare open this public hearing of the Parliamentary Criminal Justice Committee.

This public hearing is being held pursuant to the Criminal Justice Act 1989-90. The purpose of this hearing is to review the matters raised by the Criminal Justice Commission's report entitled *Reforms into Laws Relating to Homosexuality* by taking evidence from interested organisations which represent a variety of views and attitudes and seek advice from experts regarding several issues of concern. The Criminal Justice Commission's report, the submissions received from the public and the evidence received here today and tomorrow will inform this committee so that it may formulate its final report to Parliament. This will then be a step towards informed debate within Parliament and within the community.

The committee has received a great many written submissions from interested organisations and individuals. We have selected 18 witnesses for these hearings from over 1 000 submissions received, and we thank the community and organisations for those detailed submissions.

The selection task was difficult because many more than 18 went to considerable effort to assist us. The selection was based on those which could, as far as possible, provide a representative view of the wide range of issues involved. These issues included religious and moral concerns, legal issues, human rights, privacy and discrimination, medical, psychiatric, social factors and employment. These issues will be canvassed more particularly over the next two days.

For the record, the Criminal Justice Commission's report was released publicly on Friday, 1 June 1990. On 9 June 1990, the parliamentary Criminal Justice Committee invited the general public and interested groups to make written submissions to the committee on the contents of the report until 5 p.m. on Wednesday, 9 July 1990. Unfortunately, we are restricted by time and, therefore, we urge members of the public to permit witnesses to present their evidence without interruption.

I remind members of the public that, in accordance with Standing Order 200 of the Legislative Assembly Standing Orders, under which we operate, strangers, that is the public, may be admitted or excluded at the pleasure of the committee. The committee is holding this hearing in an open forum for the public's benefit. I trust that those present will respect the committee's intentions and respect those who give evidence before it.

Although the committee does not require you to give evidence on oath, you should be aware that this does not alter the importance of the hearing, and a deliberate misleading of the committee may be reported to the Legislative Assembly. At the entrance to this room, we have distributed on the table the list of those 18 people who are giving evidence. We will not stick strictly to the time schedule as we intent to pursue the issues I raised.

At this stage, I invite representatives from the Queensland Association for Gay Law Reform to come forward.

While they are coming forward, I indicate that, under the Standing Orders which we are bound by, to which I referred, people are entitled to take notes, but from this point on people are not entitled to record evidence given before the parliamentary committee. I would be grateful if those representatives from the media whom we allowed the opportunity to film this part of the process would kindly resume their normal process of listening very intently and reporting accordingly but without recording. Thank you.

Gentlemen, for the record, if you would like to begin by identifying who you are, your address and the organisation which you represent.

Mr Ward: My name is Nicholas Ward, of 62 Elizabeth Street, Toowong. I am the Chair of the Queensland Association for Gay Law Reform.

Mr Brown: My name is Michael Brown, of 7 Wylma Street, Greenslopes. I am a member of the Queensland Association for Gay Law Reform and a Vice-president of the Queensland AIDS Council.

Mr Patterson: My name is Craig Patterson, of 202 Petrie Terrace, Petrie Terrace. I am a member of the Queensland Association for Gay Law Reform.

The CHAIRMAN: I take it, Mr Ward, that you are the major spokesman for the organisation. We are quite happy for you to proceed to enunciate the position as you see fit, but we would like a major spokesman. Perhaps you would like to make some introductory remarks? I should indicate that all members of the committee have read your detailed submission, but if you would like to make some introductory remarks before questions, please?

Mr Ward: Yes. As most members of the committee will probably be clear on, the Queensland Association for Gay Law Reform is advocating the decriminalisation of homosexual activity in this State. The arguments we have for this are detailed and many. The first area of concern is civil rights. Homosexual activity is a victimless activity. It is something which is a moral concern of the community, but the important point to be remembered here is that moral issues are not the concern of the law. As Fitzgerald said in the Fitzgerald report, the law must reflect social need and not moral repugnance. The laws, as they stand, are also an invasion of privacy, an invasion of the freedom of expression and an invasion of the freedom of religion.

The enforcement of these laws is expensive. The expense of the Police Department especially in the restrained areas that it is at the moment is an important issue to be faced. It is also very difficult because the acts that are concerned by these laws go on in private and not in public. The Police Department and individual officers have very little way of gaining evidence or finding out if these offences are being committed. The only cases that have been prosecuted before have been where evidence has been basically stumbled upon in the research of other matters.

The effects of these laws are very important on members of the gay and lesbian community. The marginalisation effect of this otherwise very productive area of the community is something which must be borne in mind. The laws, as they stand, make criminals out of people who otherwise would be just law-abiding citizens.

The laws also encourage prejudice, ignorance and bigotry in the community. Obviously, the decriminalisation of these laws will not do away completely with such prejudice and bigotry, but it is necessary that homosexual men and women are not considered as illegal in this State for such prejudice to start to be tackled.

The laws, as they stand, have bred an enormous distrust by the gay community in the police and an enormous amount of aggression on behalf of the police towards the gay community. These laws, again, need to be tackled so that an element of trust can be built up with the protectors of our community.

An important issue to raise here is the self-esteem of homosexual men and women in our community. These laws make homosexual men second-class citizens in the community. This is something which they have no power over and something which leads to an enormous amount of depression, an enormous amount of distress, an enormous amount of breaking-up of family units over such stress and, in extreme cases, has led to suicide on several occasions.

The next area of concern, of course, is the AIDS issue. AIDS is a disease which has no cure. It has only limited treatment in our community. The only way of solving such a problem is by prevention. The prevention of AIDS makes it very important that people who are at risk of AIDS come forward for testing to find out whether they can in fact make benefit from treatment. They also need information to be available to at-risk groups. Homosexual men are one of the at-risk groups of AIDS. All of the community is at risk, but homosexual men are at a greater risk because of the prevalence in that community. Such information needs to be made available to them. If the act of coming forward incriminates homosexual men in criminal activity, this obviously will discourage such people from coming forward with such information.

To conquer the AIDS virus, there needs to be an element of self-esteem built up in homosexual men, as I have already indicated, so that they behave responsibly and change their sexual practices to what are considered safe sexual practices. It has been shown by psychologists that, indeed, positive self-esteem and positive self-image are very important for that.

The protection of minors is an area of great concern which is extremely important in our society today. At the moment, the situation with the laws is that no distinction is drawn between consensual adult activity and activity involving minors. The laws which we would like to see brought in will specifically point out the differences between activity of adults and activity of minors and, as such, will help to protect minors in our community.

The opposition to homosexual law reform has come from largely moral and religious groups. Such groups have very special interests. They wish their moral stance to be made quite clear to the community, and a lot of those groups wish the laws to do such for them. Often those groups are misinformed on the issues involving homosexual law reform and, in many cases, are quite ignorant and misleading of the community on these issues. We want to make the issues and the facts involving homosexuals and

homosexual law reform clear. I will present a few facts involving homosexuals, or homosexuality and sexuality. Individuals have no control over their sexuality, and that has been made quite clear by psychologists. Psychology now views homosexuality, as psychiatry does, as not a disease at all and not something which is intrinsically bad. As such, it is important—this again has been borne out by psychologists—that a positive self-identity is promoted in homosexuals. There have been arguments by people trying to prevent homosexual law reform that these laws will tend to stop homosexual activity, will stop people being homosexual and, therefore, stop the spread of AIDS. This has been shown to have no basis in fact.

The element of Christianity is an important one in this discussion. It is important to note that Christianity and the concepts of what is Christian and what is not Christian have changed a lot over the centuries and continue to change. The church now, in the majority of cases, is taking a view of compassion towards homosexual people and considering them as being equal citizens in the eyes of the law and should be considered as equal citizens in the eyes of the State.

The area of family has often been used to attack homosexual people. This is an important myth to counter. Homosexuals also have families. Homosexual families are often nuclear families in the case of the ascendant family of parents and brothers and sisters, or often non-nuclear families in the case of homosexual men and women who do have children. These families are very important to us and it must be made very clear that the laws in this State are promoting problems within these families as parents especially have problems coming to terms with children who are homosexual. As such, the change of these laws is important if we are to tackle these problems.

The most recent legislation is the Western Australian legislation and it is important that I discuss here the problems that there are in that legislation as it is quite distinctly distasteful. One of the first areas in which the legislation has made great mistakes is in age of consent. The concept of equality between citizens of the State has been left and homosexuals have been made a special case in this legislation. The age of consent in Western Australia is 21 for males; it is 18 for heterosexual relations, and there is a defence down to the age of 16 with no defence capable of being applied to homosexual situations.

Apart from obviously having an enormous effect on self-esteem of homosexual men in that State, it is a very serious infringement upon the concept of gender neutrality. It is a highly sexist ideal. It is basically saying that women in our community do not need the protection that men need. There has been no indication that maturity is different in males or females at these ages. This has been borne out by things like driving age and drinking age being equal for males and females.

It is an important decision for homosexual youth to make as to whether to start tackling their sexuality, as to whether to have sex. This is also a very important decision that needs to be made by heterosexuals. Obviously, the risks of pregnancy in the heterosexual community are something which can't be glossed over without consideration.

One of the newest high-risk areas of AIDS is youth, the under-20s area. It has been shown that a very high proportion of sera conversions of AIDS are happening in this group. This group obviously needs targeting with information and a law which does not have an equal age of consent will make it very difficult to target such an area.

I also wish to point out that the Criminal Justice Commission's information paper on laws regarding homosexuality has recommended in its "Options for Queensland" section that it would equate with the principle of anti-discrimination and equality of the sexes to have an equal age of consent.

The next area of problem with the Western Australian legislation is the preamble. There is a preamble which points out that although the law is being reformed, the State views very negatively homosexuals and does not at all condone homosexual behaviour. Apart from the various obvious aspects at the destruction of self-esteem of homosexuals, the destruction of trust of homosexuals in the State and especially in the area of AIDS education, it is vitally important that homosexuals can come forward and expect to be treated confidentially, come forward and expect to be given equal consideration to others.

It also entrenches community attitudes which are largely antagonistic towards homosexual people and are causing enormous problems. There is no precedent in Queensland, I might point out, for a preamble in legislation. It would be a very big step to actually initiate such a preamble.

The other point to make with a preamble is that because it can be read by a court before making a judgment, it can in fact be used to read down a judgment which wasn't initially intended by the law, and so weakens the legislation.

There is a facilitising clause in the Western Australian legislation which prohibits what they call promotion of homosexuality.

The CHAIRMAN: Sections 23 and 24.

Mr Ward: Right. The area that we are concerned with causes enormous problems with AIDS education. AIDS education needs to be quite capable of putting across at the very least a non-judgmental line on homosexuality so that they can address the problems homosexual people are facing and make it clear the way homosexual people should behave in order to avoid getting the HIV.

The meaning and the area in which this clause can be applied is very unclear. It could be applied, at least theoretically, in the area of stopping the national homosexual magazines, *Campaign* and *Outrage*. It could even be used to apply to two people living in a homosexual relationship which is working being illegal because it is promoting a homosexual life-style to people who know them. Obviously, this is an extreme example but it is something that must be borne in mind.

Contracts which involve at all a perception of the promotion of homosexuality would fall void. This would cause enormous problems in the

contract law. Counselling of homosexual men and women would be made extremely difficult as obviously in counselling people who are coming to terms with their sexuality it is highly important to raise the self-esteem of these people. So anti-promotion would obviously cause enormous problems in this area. Likewise, plays that are putting a positive view of the homosexual lifestyle or even a non-judgmental view would find problems; libraries buying books of the sort and so on would find enormous problems in this area.

In conclusion, the changes which we would like the committee to recommend include a recommendation of complete equality before the eyes of the law for homosexuals in this State with heterosexuals. This would be done by removing provisions 208, 209 and 211, the reforming of 215, and there are certain other areas as pointed out in our submission which would require reforming. Gender neutrality is a very important aspect here. If gender neutrality is carried through in this area, then the same provisions which protect heterosexuals in our community will protect homosexuals and vice versa. These are pointed out in places in the "Options for Queensland" section of the Criminal Justice Commission's information paper.

The CHAIRMAN: Does anyone else want to say anything at this stage, Mr Ward? We are happy to pursue questions. Perhaps that is the most useful way for us to go. Are you happy with that?

Mr Ward: Yes.

The CHAIRMAN: We want to make sure that everyone has an adequate opportunity to put their case.

There are three major things that I would like to pursue. Obviously the age of consent, AIDS and the preamble to the Act are important. I notice you say on page 3 of your submission—in fact, it starts at the bottom of page 2 in relation to AIDS counselling and the law and it goes over in relation to AIDS testing. I am particularly interested in the second paragraph on the third page which states—

"Counselling is made more difficult in that people are less likely to come forward and seek assistance if doing so places them not only at emotional but also at some considerable legal risk, accordingly productive lives are lost with vast human energy being wasted."

I wonder if you could, without specific names, of course, give us some illustration of experiences that you are aware of involving people who are reluctant to come forward from the homosexual community to be tested.

Mr Brown: Yes, I have had quite a deal of experience with cooperating with the Queensland AIDS Council in their peer education program. One of the great difficulties we have in terms of providing education to people who are most at risk is that they don't identify themselves. We know that in Queensland we have many tens of thousands of homosexual men—or certainly men who have sex with men—and we are not getting anywhere near those people. Certainly there have been difficulties. We have a lot of people call the Bi-Line, which is the bisexual counselling line of the Queensland AIDS Council. That is one of the few places they can do so of accessing information without incriminating themselves. But behaviour

change is a very difficult thing and it is not just a matter of information. People have to be able to come and participate in some of the education programs and have the support to change their behaviours.

The CHAIRMAN: In other words, what you are saying is that the existing law is making it difficult for people to be tested; they don't feel happy to come forward to be tested; is that what you are saying?

Mr Brown: That is certainly the case that they don't come forward to be tested. There has certainly been a tradition over the last several years of a great deal of distrust of the authorities in Queensland. There are a couple of things that have led to this. Certainly the criminalisation of homosexuality in the Act. Also, a couple of years ago, police raids on fertility clinics led to a lot of people being concerned about privacy. As a result of that, a lot of people didn't trust the institutions which were trying to access these people. In particular, the Health Department were worried about the lack of testing and the lack of confidence which people had.

We know of very, very many homosexual men—I could say including myself—who have travelled interstate for testing. We also know at the Queensland AIDS Council that there are a number of people who are HIV positive who have tested interstate or overseas and whose existence of the HIV status is not notified to the Queensland Health Department.

The CHAIRMAN: We are obviously particularly interested in the AIDS issue. The AIDS Council is appearing here tomorrow afternoon. I notice further down on page 3—I won't read all of it—that you say—

"This effective safe sex campaign also results in a substantial lessening of transmission of AIDS to the broader community."

I think you know the section that I am referring to. I wonder if you could explain what you meant by that?

Mr Brown: Yes, I think I could explain that. One of the problems is that there is not a convenient divide between homosexual and heterosexual people. There is no connection. There is quite a high incidence—we don't know how high—of bisexuality. There are a lot of married homosexual men and a lot of married men who have sex with men. Typically, these people are people who are least likely to identify themselves and most difficult to target. One of the best insurances we can provide to the protection of heterosexual families is make sure that these men don't come into contact with unsafe sex practices. If we are able to educate the homosexual community into safe sex practices—and we have some information that there certainly has been a decline, particularly in studies in Sydney with regards to the rate of increase in HIV infection—stopping the AIDS where it is centred now is an excellent protection for those married and bisexual men who have sex with men, and it is the best protection we can offer to their families.

The CHAIRMAN: I obviously want to pursue that a little further. I notice that in the national HIV/AIDS strategy when they talk about the spread of AIDS, it says—and this is obviously an objective position—

"The spread of AIDS through sexual intercourse with an infected person, most particularly anal and vaginal intercourse . . ."

They don't differentiate in terms of the spread of the disease. Can I clarify in my mind at least what you are saying? What you are saying is that if the law was changed, one, people would be more likely to be tested; two, it would enable you to run a more effective education campaign amongst homosexual people. But are you identifying bisexual men, some of whom may be living in married situations, as being one of the danger groups that are hard to identify in terms of education and hence testing because of the existing law? I am not trying to put words into your mouth, I am trying to short circuit it so that we understand.

Mr Brown: It is an extremely complex area. It is not just the law, it is a whole range of social factors including people's perceptions of their own identity, the risk they are at for their families and telling their families of their particular status. Certainly the law does contribute there in terms of people not being able to identify themselves through fear of perhaps prosecution.

The CHAIRMAN: I guess I should be fair and put this question to you because in the submissions that have been put to us there are a number of views expressed. I want your response to this because we will be obviously dealing with this issue and you happen to have the task of being the first here, so I will put it to you. Some of the submissions have said to us by inference that AIDS is basically a homosexual problem, disease, whatever and therefore if it remained illegal it would be less likely to be spread into the rest of the community. I put it to you simply from the point of view that it is put to us, if you would like to respond to that.

Mr Brown: I don't think there is any information to support that view. In South Australia, homosexuality was decriminalised 15 years ago. They have a lower incidence of HIV infection than we do here in Queensland. That is not conclusive. Of course, it is an experimental result. It is a very simplistic question. It presumes that the current laws are effective in preventing homosexual activity. Certainly, to my knowledge, they are not effective at all. All it does is make homosexual activity extremely covert and beyond the reach of education. That is the only effect that the law has in terms of the behaviours.

The opposite thesis that education is important and that the current criminal status is a barrier to effective education is one that is held by most well-informed health authorities, including the World Health Organisation, the former Surgeon-General of the United States and the Commonwealth Government's chief advisers.

Mr Ward: It is important to remember that AIDS is not caused by homosexuality. AIDS is caused by unsafe sexual practices. This is where the importance of education comes in. It is important also to realise that the majority of AIDS cases in the world are heterosexual. The vast majority of AIDS cases occur in the population in Central Africa where it is almost exclusively spread by heterosexual contact. If we are going to avoid the situation occurring in Australia, we must make sure that the methods of transmission into the heterosexual community where it could also spread very quickly are minimised. This is where education becomes extremely important.

The CHAIRMAN: What are the latest trends in America at the moment?

Mr Brown: I don't have detailed information on the trends in America. However, at a recent conference of the Queensland AIDS Council, one of the chief medical officers of the Queensland Health Department pointed out the Queensland statistics and those for Australia in general. The heterosexual transmission of AIDS is the fastest growing category, without any other risk factors.

The CHAIRMAN: Do you want to say anything else in relation to that particular issue? There are other questions I want to ask, but it is obviously a matter that we will have to consider. There are weighty submissions before us on it.

Mr Ward: AIDS is certainly a very important issue to be covered here. It is one of the important reasons for homosexual law reform. I am sure that the Queensland AIDS Council would be probably in a better position than us to give you more detailed information on AIDS.

The CHAIRMAN: I realise that. We will be pursuing that, but I did not want to miss the opportunity of asking that of you. I move on to the protection of minors, which is one of the issues you dealt with. On page 3 in the first two paragraphs under the heading "Protection of Minors" you say—

"The amendments to the Criminal Code of Queensland which we suggest clearly protects minors, persons under 16, of both sexes from sexual exploitation and assaults of both a homosexual and heterosexual nature.

Contrary to the beliefs of the extreme fundamentalist Christians, there is overwhelming evidence that almost all child sexual abuse is heterosexual in nature and, even more significantly, the majority of such abuse takes place within the context of the family relationship."

Do you want to expand on that?

Mr Ward: It is largely as it says. In a recent study in Western Australia, over 81 per cent of cases of sexual abuse that took place were of a heterosexual nature. Given that situation, it is vitally important that child abuse in the heterosexual environment is not given a weak treatment. It is a very important problem in our community and it needs to be faced. The same sort of thing needs to be faced in the homosexual area. There are individual heterosexuals and homosexuals who abuse children. That is quite clear. These need to be tackled as a problem, because it is a big problem. They need to be tackled equally.

The CHAIRMAN: So you are just as interested in the protection of minors as anyone else?

Mr Ward: Certainly.

Mr Brown: One of the grossest generalisations that is often claimed is that we are all paedophiles. We certainly take that as a grossly unjust accusation.

The CHAIRMAN: I appreciate that. I hope you realise that I am putting issues to you so that you have an opportunity to respond. In terms of the many documents you attached to your very substantive submission, one was entitled "Six for Sixteen—Six reasons for an age of consent of sixteen". Under point 5 there is a submission about orientation and you mention—

" . . . the Royal College of Psychiatrists gave evidence to a government committee that 'A person's primary sexual orientation is fixed early in life and definitely before 16.' "

You spoke about other surveys in New Zealand or wherever. I wonder if you would like to make some general submissions in relation to sexual orientation and the age. To some extent, certainly in some people's minds, that is relevant to the age of consent.

Mr Ward: Certainly. I see that on the timetable for today there are psychologists speaking. They would probably be able to address a lot of these questions as well. There is very strong evidence to suggest that although homosexual orientation is determined by a complex range of factors—probably a mixture of genetic and social factors—all evidence seems to point to the fact that it is formed within an individual very early in childhood; certainly well before adolescence. It is important to realise that what we are preventing in preventing the finding of one's sexual identity in adolescence—if it is homosexual—is just that; we are preventing the finding and the adjustment to that sexual identity. We are not preventing someone from moving or changing between sexualities. This appears to be something that is not a matter of choice. We are preventing the settling and the psychological health of that individual.

The CHAIRMAN: On page 5 of your major submission, I believe that you were dealing with the point that an equal age of consent would help to produce the transmission of AIDS, because AIDS education could be targeted at that group. Is that what you are saying?

Mr Ward: Yes. That is one of the points that we wish to make. One of the very high-risk areas for AIDS is in youth, especially at this stage because youth is one of the hardest areas to bring self-esteem to, especially with the influence of parents who are often not understanding of a child's sexuality or an adolescent's sexuality. It is important that we can bring a more positive aspect here so that, in the very risky experimental stage which adolescents go through, safe sexual practices are carried out.

Mr Brown: AIDS is very much a young persons' disease. About half of the HIV infections are in the group between 25 and 35. If you take into consideration that they are the ones we know about—the notifications of AIDS—infection, on average, could be expected to be anything from 7 to 10 years prior to that; so it is very likely that people are at risk between 15 and 25. It is very much a young persons' disease.

The CHAIRMAN: I notice also on page 5—and this is a relevant consideration—you say—

"There is no evidence to suggest that there is a significant psychological difference between boys and girls at age 16."

Do you want to enlarge on that?

Mr Ward: Yes. I am sure that the psychologists will probably have a lot to say in that area. It is important to realise that, in our community, we have as of yet no discriminatory activities or no discriminatory ages or drinking, driving, smoking and voting which make a discrimination between men and women in our society. It would be quite a precedent to start that happening here.

The CHAIRMAN: I move now to talk about Christianity and homosexuality. On page 5 at point 7 you say—

"As Christians have realised that homosexuality is not a matter of choice but is a part of a person's nature . . . "

Do you want to expand on that?

Mr Ward: The Christian community is obviously divided on this topic. There are fundamental lines which still go very much along the lines of a strict Bible. There are lines which take a far more liberal and up-to-date view of the area. More and more Christian groups are starting to realise that, in fact, a person has a sexual orientation which is not a matter of choice and they are now considering the importance of that individual person. As the Christian principle of looking after other people and considering and treating equally and fairly other people in our community is pursued, that is taking precedence over moral problems and moral judgments.

The CHAIRMAN: I don't wish to be offensive, but can I ask this question again, because it was in one of the submissions that was put. I feel that, in the interests of fairness, I have to give you an opportunity to respond to it. One of the submissions from one of the church groups—and they will enlarge on this themselves. If I misrepresent what they say, I am sure they will have the opportunity to correct me, and I am happy to be corrected. I am trying to represent what they are saying. They are saying that, through their Christian activities, they are able to counsel people to a heterosexual life from a homosexual life.

Mr Ward: There are groups around who have attempted to do this. Liberty is one which comes to mind. The success rate—and again I would like to focus this question onto the psychologists who, I am sure, would be able to answer this as well—the success rate of counselling and changing a person's sexuality in people who are very much desirous of change and very much motivated towards changing their sexuality has been lower than 30 per cent. That figure occurs almost solely in people who have had heterosexual experiences in the past and who would more rightly be termed bisexual.

The CHAIRMAN: I think we have covered the age of consent and AIDS. At the end you will have an opportunity to raise any other matters that you feel have not been adequately covered. Can I deal with interstate legislation? In particular, is there any model in Australia that you would support in terms of the existing law?

Mr Patterson: Either the New South Wales or the South Australian model are the most acceptable. The Victorian model is also acceptable in the main.

The CHAIRMAN: Could you quickly summarise why they are acceptable? I know why they are—as compared with Western Australia. Mr Ward has made that clear, and I will come back to that. What do they provide that makes them acceptable?

Mr Patterson: I will talk only in very general terms, because some of these matters are actually canvassed in the submission before you. Basically, the association's concern, like the majority of the community, is that minors are protected. The three pieces of legislation that I have referred to adequately protect minors from both homosexual and heterosexual sexual exploitation. That concern is covered in those enactments, whilst at the same time having a uniform age of consent and decriminalising consenting or consensual sexual relations between homosexuals. Basically, they are the areas that are covered in all of those.

The CHAIRMAN: And the uniform age of consent?

Mr Patterson: In South Australia it is 16. In New South Wales it is 18. In Victoria there is a unique mechanism where the age of consent is 18 but people who are 16 can have consensual sexual relationships with a person who is in the same age bracket—within two years—and, for some offences, within five years; and that is a defence in that jurisdiction.

Mr Ward: I might point out also that in those legislations there is a non-judgmental tone taken towards homosexuals, and it is viewed on the grounds of equality.

The CHAIRMAN: In relation to the Western Australia law, you talked about the preamble to the Act and dealt with that to some extent. Is this summarising what you are saying: that the preamble to the Act has a significant impact on self-esteem and from there go the consequences of difficulties with AIDS education and people adjusting to their homosexuality and living a normal life? Is that what you are submitting?

Mr Ward: That is certainly a very strong point. It is important to realise that the legislation—as the Western Australia legislation used to be and as the Queensland legislation is—has put an implication that homosexuals are second-class citizens. The preamble in Western Australia is specifically stating that homosexuals are second-class citizens.

The CHAIRMAN: The sections 23 and 24 to which you refer—your concern is the effect they may have on AIDS education, campaigns and contracts between homosexual people. That is your major objection to those sections?

Mr Ward: Yes, it is very vague and could be applied to virtually anything.

The CHAIRMAN: The problem we have with the Western Australia law is that it was only proclaimed in March of this year. There have been no tests on it because it is at such an early stage. No-one really knows what the consequences of the provisions that you refer to are.

Mr Patterson: The difficulty with the Western Australian legislation is, in part, exactly what you have expressed, which is that it has an uncertain

ambit. Essentially, we have provisions where any contracts in respect of AIDS councils may be void for illegality. That is a fairly mammoth problem.

MR GUNN: I think you would concede from your statements that AIDS is one of the greatest problems facing mankind today. You mentioned Central Africa—and these are only known places. There are lots of places throughout the world where it is not known. It is rampant in certain areas of Asia. But if homosexuality was decriminalised, do you think homosexuals would still present themselves for HIV testing?

Mr Ward: Yes, I believe there would be a far greater number presenting for HIV testing if it was decriminalised.

MR GUNN: You did mention that a lot of them are not known. How are you going to get them to come forward?

Mr Brown: Clearly, there are still a whole lot of social factors which prevent people from identifying themselves, not the least of which would be attitudes in the general community which prevent people from identifying themselves. There is also the effect that that could have on their family and their social lives and also on their employment. But it is a matter of changing things over time. What is important is that we are in a position to pursue, with the fewest barriers possible, the most effective AIDS education campaigns.

Mr GUNN: Time is not on your side. From the way this disease is spreading throughout the world, I do not think we have got much time.

Mr Brown: I agree. We have known about the AIDS virus now for about six years. The Queensland AIDS Council has been involved in attempting education for the last four years and has been calling for law reform for at least that time to assist them. We are running out of time. Certainly, if there is going to be not one more case of transmission, we are certainly looking at a huge number of people who are already infected coming on. At the moment, we have approximately 1 000 notifications in Queensland.

Mr GUNN: There is a great chance of some of those African races being completely wiped out because, I believe, blood for transfusions is not even screened in those countries.

Mr Brown: That is true.

Mr GUNN: You did mention bisexuals. I think that you will also concede that they are a major problem as far as the spread of AIDS is concerned?

Mr Brown: Very much so. The heterosexual community is not conveniently isolated from the problem. The present statistics would show that 95 per cent of all cases being homosexual is really a statistical accident rather than a causal one, and that now we have in Queensland 35 cases of heterosexual transmission of AIDS. It is growing exponentially.

Mr Ward: Can I add that a large area that are viewed as bisexual are probably better assessed as being married homosexual men who have married because of the enormous social stigma which surrounds homosexuality. These men are frequently transmitting this disease to their wives also, as bisexuals are. Because of that, it is important that the law, as

well as making information available to such people, should advertise safe sex information, which is important because a lot of these people do not have contact with any homosexual organisations. As well as that, it is vitally important that we have a changing of social attitudes towards homosexuality so that homosexuals can assume their role with proper self-esteem and proper self-image and not simulate a heterosexual environment, and so that we do get more responsible activity and less of a transfer through this means.

Mr GUNN: Would you also concede that a lot of these bisexuals, of course, do not mention this even to their own wives?

Mr Ward: There are some very irresponsible individuals in every community.

Mr GUNN: That is true. What would be the percentage, at a rough guess, of bisexuals in Queensland?

Mr Brown: I have no detailed information on that.

Mr GUNN: In Western Australian, they did think that the figure was 2 000 000.

Mr Brown: I think that there are sufficient to worry about.

The CHAIRMAN: To expand on what Mr Gunn said, the gay community said to us that, in reality, a lot of people who claimed to be bisexual were in fact homosexual men living a lie. That is what they said. In other words, they said that the number of bisexuals was very, very small. In fact, there were many people who were misdescribed.

Mr Brown: A lot of it is a problem of description. A lot of people may be homosexual men but don't identify themselves as such. A lot of bisexual men will not identify themselves as bisexual men.

Mr Ward: Can I state the importance of the fact that the classification is not what transmits AIDS; it is the activity of the people. A homosexual person carrying on bisexual activities is as much at risk of passing this on as a bisexual carrying on bisexual activities.

Mr GUNN: You mentioned the WA legislation. Of course, that was a private member's Bill. You would probably concede that the preamble really killed the Bill as far as you people were concerned?

Mr Ward: Certainly.

Mr GUNN: It is very difficult to understand that Bill when one reads it. It is all over the place. It wasn't put together very well. That was by virtue of the fact that it was a private member's Bill. One person put that up without much assistance, apparently, from anybody else.

Mr Ward: It was a political compromise.

Mr GUNN: It has been amended now.

The CHAIRMAN: It was amended in the Upper House.

Mr GUNN: It will go on and on and on.

Mrs EDMOND: I was in South Australia when they first started working towards implementation and I was interested in following it there. Could you expand on the effect of legislation, particularly in these areas: anti-

gay violence, the use of beats—— because that is of primary concern——the control of AIDS, and the number of gays. Has the legislation led to a great influx of homosexuals in South Australia?

Mr Ward: There has been a study done on that. I have seen some information, but it is very risky to quote from sources without having them in front of me.

Mrs EDMOND: Dr Ross did a fairly expansive study. If I can, I would like you to put that on record.

Mr Ward: From memory, the number of homosexuals in the State has not noticeably changed. The number of AIDS cases per capita is lower than all other States in Australia.

Mrs EDMOND: They have not been overrun just yet?

Mr Ward: No. The element of the activity——again, from what I have heard——has also decreased. That indicates that the legislation has tended to have a positive effect on people.

Mrs EDMOND: And violence?

Mr Ward: Not having the information in front of me, I am not sure. I would expect that violence would have increased, but if I can get hold of a paper, I could tell you.

The CHAIRMAN: This goes for all people making submissions today: if there is material that members ask for and that material is not available, you can send it to us.

Mr Brown: I know that it is detailed in the submission of the psychologists. With regard to violence, one of the important things to realise is that the current criminal status of homosexuality is actually a pretext for violence. One of the problems we have is recording the amount of violence against homosexuals, for example, in Queensland where a lot of men who are victims of violence——either by bashers or where we have only anecdotal information from the police——are unable to seek justice on that because to identify themselves and come before the courts puts them at a great deal of risk for their families or their occupational status.

Mrs EDMOND: The other thing that we hear constantly is that if we decriminalise homosexual acts, we will have gay mardi gras taking place instead of the Warana parade. How many gay mardi gras have taken place in Adelaide?

Mr Ward: In Adelaide, there have been no gay mardi gras.

Mrs EDMOND: Can you explain that?

Mr Ward: Yes. It is important to realise with the gay mardi gras in Sydney that it began with the protest march in the late 1970s during the time when homosexual acts were criminalised. It began as such. It then had an enormous influence and has become a theatrical event which a lot of people consider is overly flamboyant. Decriminalisation will certainly tend to avoid the situation of a protest march evolving into something like that, it would appear. But I would put to you that one gay mardi gras in Australia is probably more

than most people would go to anyway. Economically, it will probably be a difficult thing to carry out.

Mr Patterson: Strictly speaking, if there was going to be a gay mardi gras in Queensland, it would occur during this period. There is nothing illegal, of course, about having a public event like that. So, if it is going to happen, it will occur over a period of protest such as we are having now.

Mrs EDMOND: So we can't look forward to it?

Mr Patterson: Fortunately or unfortunately, probably not.

Mrs EDMOND: I am sure that that will relieve a lot of people who were concerned about it. I notice in some of the submissions from the church that they say the laws have not been enforced for many years, anyway, so there is really no need to change them. Could you expand on that?

Mr Patterson: That is flagrantly untrue. I personally have had experience on a client basis of numerous entrapment situations and indecent behaviour offences. At the moment, there are active sections 208 and 210 offences with which the Queensland courts are dealing. There are lives which are already ruined by the legislation as it stands.

Mrs EDMOND: And they are recent?

Mr Patterson: As recent as a month ago, yes—serious section 208 offences.

Mr Ward: They are—for people who are unaware of the sections—private, consensual acts between adult males.

Mrs EDMOND: Correct me if I am wrong, but the law does not actually say "between males", does it? It is the act of sodomy? So we could actually have married couples coming before the courts in similar circumstances?

Mr Patterson: The offences that I am aware of that are before the courts at the moment actually involve heterosexual sodomy offences under section 208. Also, there are offences before the courts of indecent practices between males which, of course, are specifically homosexual offences.

Mrs EDMOND: Really, what we are discussing is the decriminalisation of sodomy, not the decriminalisation of homosexuality?

Mr Patterson: With respect, the question of sodomy is perhaps a separate one, but certainly the offence of indecent practices between males of varying seriousness which the Criminal Code, as it stands, sets out is as important as the sodomy provision. I think it is important to note that all male homosexual behaviour—or heterosexual behaviour—is not defined in terms of sodomy.

Mr Ward: Can I build on that also. You are certainly right. It is the act which is criminal, not the state of being. That is a very important distinction to make. It is also important to realise that the area of law specifically concerned with sodomy has quite clearly been aimed, almost without fail, at homosexuals.

Mrs EDMOND: I know the anti-proselytising clauses at the end of the WA legislation have caused concern in the gay community in WA. How can

you handle not being seen to push young people into homosexuality without an anti-proselytising clause?

Mr Patterson: The difficulty is that we have to change the initial perception, that is, the perception that it is possible to recruit homosexuals. The evidence is quite clearly that that is not the case. I am sure the psychologists will discuss the fact that the evidence shows that sexuality is largely fixed. Therefore, for all the promotion that occurred, the percentage of people who are homosexual will not vary to any great extent. All that the legislature can hope to do is to protect minors from sexual exploitation, whether it be heterosexual or homosexual. It is vital to impress upon the community that that is a vital concern. The only promotion that the homosexual community is involved in at the moment—as it will, I presume, in the future—is that people who are already homosexual can and may feel fine about that. They may feel well-adjusted in their homosexuality. Accordingly, they can be productive units in a community. Many of us are professionals who only seek to have successful financial, social and professional relationships.

Mr Ward: It is important to point out that it is probably better referred to, rather than promotion of homosexuality, as improvement of the self-image of people who are already homosexual. I might add that there are also clauses in the law as it stands and, as it would stand after decriminalisation of homosexuality, which protect from basically many forms of promotion of a heterosexual or homosexual nature.

Mr SCHWARTEN: Many of the questions that I had have already been covered. What is your assessment of the percentage of homosexuals in Queensland at this point in time?

Mr Ward: Well, how long is a piece of string? Obviously this is a very difficult question. In the world, to my knowledge, there has only been one detailed study of actual homosexual numbers or homosexual percentages, that is the Kinsey study in the United States in the 1950s where something like 11 000 individual citizens were interviewed in depth to try to ascertain their sexuality. That came out with what the researchers themselves described as probably a lower figure because of the reluctance to self-disclose one's sexuality. It came out that 4 per cent roughly are exclusively homosexual. If you include people who are predominantly homosexual, the figure goes up to 10 to 14 per cent. Over or up to 40 per cent of males have had homosexual experiences which they have found sexually pleasurable in their adult life-style, which is post-puberty. So it is certainly not a small percentage.

Mr SCHWARTEN: Given that that is the case, how many prosecutions have there been in Queensland in the last five years of consenting adults being prosecuted for performing homosexual acts in the privacy of their own homes?

Mr Ward: That we are aware of, which is an important point to make, because we have found out since that there have been cases in the last 10 or 15 years which have gone through and individuals have been given good behaviour bonds, which was never disclosed in the press at the time. That we

are aware of, there are seven, not including the cases which are presently before the courts.

Mr SCHWARTEN: They are not entrapment cases?

Mr Ward: They are not entrapment at all. They are cases which occurred, two down on the Gold Coast where two individuals were being investigated about a completely unrelated issue. They were asked by the investigating officers whether they were homosexual. Being naive on the matter, they said that they were. When asked the activities that they performed, they detailed those activities. They were then charged. Contrary to how it has often been reported in the press, convictions were recorded in those cases. There were convictions recorded in those cases. Those people have convictions against their names. They were given good behaviour bonds and have left the State as, obviously, to reoffend—in other words, continue their relationship—would be putting them at risk of going back to gaol.

The situation in Roma in central Queensland in the last year was that five men were charged with these offences. Three of the cases stemmed from a situation where a sister revealed the homosexual relationship going on between two of the men to the police and investigations pursued from there.

Mr SCHWARTEN: Given that that is the case, that there is a significant homosexual population in Queensland and that the number of prosecutions is minimal, the law is either unable or unwilling to prosecute on the basis of the current laws?

Mr Ward: Certainly, it appears to be being used by individual police to justify their own prejudices and to use their own prejudices and make release of that. Although the cases are minuscule in proportion to the number of homosexuals in this State, it is incredibly important to realise the enormous infringement, the enormous damage, that these have done. One of the men in Roma attempted to commit suicide while awaiting court. He actually shot himself and survived. It is important to remember the cost of these laws.

Mr SCHWARTEN: I accept that. Bribery of people who are known homosexuals is another issue that is cited. Do you have any evidence of that?

Mr Ward: The Homosexual Community Welfare Service, who unfortunately through a mix up did not get their submission from the Criminal Justice Commission to the parliamentary committee, had a submission which did detail some cases of bribery. They are aware of some cases of bribery also. The cases I am not aware of in detail, but indications are that there have certainly been many cases of bribery but, quite clearly, the majority of those will not be reported, as is the case with the majority of bashings and violent attacks. All forms of assault upon an individual, which would through their reporting imply the individual to be homosexual, put them at risk of the law and at risk of the social stigma which goes with homosexuality.

Mr SCHWARTEN: Is there any set trend of who is committing that bribery? Is there a set pattern of people who do that?

Mr Ward: That I am aware of, no. Then again, as so few of them are reported, it is probably very difficult to work out whether this is anything particularly organised.

Mr SANTORO: Your submission states—you reiterated it this morning—that the laws should reflect social needs, not moral judgments. Have I interpreted you correctly there?

Mr Ward: Yes, that is right.

Mr SANTORO: How would you react to the statement that in fact some people believe that laws should reflect the views of society as a whole and that, therefore, the Western Australian model is a reasonable model as far as legislation is concerned given that it reflects the majority view of society about acts of homosexuality whilst, at the same time, displaying tolerance that obviously the homosexual community lobby wish? How would you respond to the statement that a fair balance has been struck, particularly bearing in mind the contention that I think is prevalent within the community that laws should reflect the views of society and that, in fact, the argument could be made that laws do that?

Mr Ward: The concept of laws reflecting social need is a primary concept which goes back through the ages and it is quite different from the laws reflecting the views of society. Nevertheless, the opinion of society, as indicated by the only recent poll in the *Bulletin* last year was in fact overwhelmingly on a two-to-one basis in favour of decriminalisation of homosexual law reform.

Mr SANTORO: Is that the same, though, as approving of homosexuality? If the question had been asked to that group of people, "Do you approve of homosexuality as a socially acceptable practice?", do you think that the answer would have been the same?

Mr Ward: I am sure that the answer would not have been the same due to the stigma that is present in society and due to the need that we have of changing attitudes to prevent damage to this area of society which are homosexual men and women. I do not see that as an excuse for keeping such laws that do such damage.

Mr Patterson: I think that the difficulty here is that the law must be consistent, and the law does not enact that premarital sexual relations are the subject of the criminal law. Also, in relation to heterosexual sex offences, it does not set out that certain behaviours are abominable in the sight of the law. If the law is going to reflect social moral attitudes, I think that a great many homosexuals would be happy with a consistent line of attack. The difficulty with that is that that sort of approach would be abhorrent if I were to suggest it to the majority.

Mr Ward: I would like to know how you would handle adultery.

Mr Brown: I would like to make a point. My approach would be to answer it on libertarian grounds and cite John Stuart Mill. I think one of the important things that we have to be quite clear about is that the separation, or the difference in roles between morals and law, particularly the separation of the church and State—if I could quote from the *Catholic Leader* recently

where Bishop Gerry from the Catholic Church was saying that it was not a role of the law to act as a policeman in private homes and in people's lives, but that it was the role of the law to teach morality, what is right and wrong. I certainly disagree with that. I think that it is the role of the churches to teach what is right and wrong and it is not the role of the law to be an instrument of the church. Rather, even though there may be very many people—quite understandably—who are very upset about the whole idea of homosexuality and do not want to condone it, they have ample means by which they can express that view in our society. We have to be careful that by allowing the expression of a majority does not infringe on the rights of minorities or the rights, particularly the privacy rights, of individuals. That is where the distinction should be made.

For example, a long-standing tradition in liberal democracies is the idea of freedom of religion, which is an idea which I support absolutely wholeheartedly. But freedom of religion actually means nothing if it means one particular religion dictating to everyone else what they should and should not do. I think religion should be free, but I think that individuals should be free to choose their religions and not be coerced either by the law or, by inference, by preambles.

Mr Ward: I wish to make something else quite clear. It has been said before that we often expect the law to do too much. The law, in decriminalising homosexual activity, does precisely that; it decriminalises homosexual activity. It casts a very neutral view of whether society approves of it or whether it is worth approving of. The work that we wished it to carry out, which is in making society accept us as homosexuals and improve our standing in the community is quite a different task. Homosexual law reform is just that. It does not need to cast a view upon homosexuality.

Mr SANTORO: You said that the Western Australian prohibition on the educational aspects of putting your case directly in the schools prohibits, at the very least, a non-judgmental view being put across within the schools. Ideally, what sort of views would you see as being necessary to be imparted to schoolchildren in the fight against AIDS, bearing in mind that I seized on your words "at very least, a non-judgmental view"?

Mr Ward: Precisely that. A non-judgmental view; a view that homosexual activity does exist, that homosexual activity is another activity which people will carry out and that it is important that people are educated to be aware of that and not, if you like, have heterosexuality promoted to them that it is wonderful and that this is terrible.

Mr Patterson: The reality is that the large bulk of schoolchildren, in the same way as the large bulk of society, will remain heterosexual regardless of what is the view of homosexuality that is put to them. The most vital feature of sex education must be a sexual responsibility, whether that be for heterosexuals, that young women are not sexually exploited by men. I think that the same vital message must therefore be for homosexual as well, that they should not be exploited by men or women.

Mr Brown: I also put the view that, in terms of sex education, in the past Queensland has resisted a great deal of sex education in the schools,

with the result that there has been quite a high rate of teenage pregnancy in Queensland compared to the rest of Australia. Certainly, with regard to AIDS, what is important at least is very accurate information or these poor children so that they are able to protect themselves and are able to make informed choices. In former days, with unsafe sex, the worst outcome was an unwanted pregnancy. The consequences are now death. It is an extremely serious problem. You have to speak very frankly about the nature of homosexuality in schools to be able to inform these people so that they have the ability to protect themselves.

Mr Ward: Education must be realistic, and perhaps it would be better left to our educators to decide what is realistic education.

Mr SANTORO: I have three other questions, but I will leave two of them for the AIDS Council. What did you mean when you said that the law as it currently stands is expensive to enforce, when all that we have heard this morning indicates that the number of attempted and/or successful prosecutions has in fact been minimal over the past few years? How is the law expensive to enforce from your perspective?

Mr Patterson: When we talk in terms of seven prosecutions, under sections 208 to 210, the specific question was in relation to consensual practices in private. I think that the important factor is that there are also offences which are committed in a particular public context because of the existence of the present criminal law environment. In other words, there are numerous indecent assault charges or indecent practices between males which are a result of entrapment situations. This is a can of worms. I won't articulate this in any detail. The difficulty is that, yes, the police resources have been used in a fairly large sum in respect of some of these particular offences.

Mrs WOODGATE: I do not have too many questions; they have been covered by Mr Santoro. I was interested in your comments on the Western Australian preamble. Also, Mr Swarten asked the questions that I intended to ask. That just leaves it to me to thank you very much for a detailed submission. If you would turn to page 2 of your letter, I wonder if you would care to give us a bit of information. You say—

"Decriminalisation will allow the establishment of a Gay-Police Liaison Group"

I wondered if you could talk a bit more on that, whether you have actually got anything in train for that, whether you have had any contact with the police or whether that is something you people have taken on board yourselves. I would like you to expand on that if you could.

Mr Ward: Certainly, it is a very important need that we see to have a rebuilding of the relationship between gay and lesbian people in this State and the police force, of which there has obviously been a large element of distrust and a large element of violence going on between the two. That will require a concentrated effort and we believe, as has been tackled in other States, a gay community police liaison officer or something of that nature would certainly be perhaps the most productive step towards that. At the

present time, because of the laws, it has been very difficult to establish something as such like that.

We have, in the past—and certainly in the past year—had numerous liaisons with police on an individual basis. But of course that is very difficult when police cannot have an organised attack upon violence that goes on towards the gay community, upon violence or misunderstanding that occurs between police and the gay community. To get that organisation into it we believe that an officer would probably be the best step, and decriminalisation will take hurdles away from having that liaison and that cooperation take place.

Mr HARPER: I have a couple of questions to which I am sure you can give precise answers. First of all, you have made many comments in your initial address and in answer to questions in regard to the Western Australian law. I assume that you would have followed the development of that legislation over the last decade. That being the case, I would like you to indicate clearly whether you believe that Queensland legislation, using Western Australian legislation as a model or a basis, would or would not be acceptable to your group?

Mr Ward: It would not at all.

Mr HARPER: I think that answers it. The other question is that you indicated some 40 per cent of males have had homosexual relationships which they have found pleasurable. You did not expand on that, but earlier you indicated that there is more to homosexuality than simply sodomy. But in making the statement that the statistics as indicated by that survey of some 11 000 people have indicated that 40 per cent have had homosexual relationships which they have found pleasurable, were you indicating that 40 per cent of that surveyed group had practised sodomy or were you indicating that they had had some other form of relationship?

Mr Ward: No. It is important to point out here that even in the exclusively homosexual community, figures indicate that something like 30 to 40 per cent of those people engage in sodomy at least on a regular basis. That would place more sodomy occurring in the heterosexual environment in our society than occurs in a homosexual environment. The majority of this 40 per cent who do have a homosexual experience of some shape or form would not, I would expect, have experienced that as sodomy. Most of these experiences are no more than transient.

The CHAIRMAN: Gentlemen, thank you very much. I think we have covered fully your submission. I thank you for putting in such a detailed submission. We have read it. We will read it again in terms of what you have said. If you feel that there are any matters that you would wish to make further written submissions on, feel free to do so. Just make sure that we get them by 5 o'clock today.

Mr Ward: Thank you.

The CHAIRMAN: We now call the representative from the Assemblies of God. For the record, would you state your full name and address and who you represent so we have some idea for our record of the number of churches or how your Assemblies of God is structured?

Mr Lewis: My name is John Charles Lewis, I live at 142 Flockton Street, Everton Park. I am here representing the Assemblies of God in Queensland. We have approximately 180 churches in our fellowship.

The CHAIRMAN: Perhaps if you could make a few introductory remarks. As you have probably gathered, we have read your submission and I in fact put a couple of facts in your submission, as you understand, to the people who were here prior to you from the Gay Reform group, not to preempt you but because they have an opportunity to respond. Perhaps you would like to make some introductory remarks and then we will ask some questions.

Mr Lewis: My first remark would be to thank you very much for the opportunity to present this paper. We do consider this to be a very, very important issue in our community. We thank you for that opportunity. I do thank you also for the graciousness of allowing me to come earlier in the day as I have to catch a flight this afternoon.

Our first introductory statement is that we consider that the act of homosexuality is objectionable from a moral and a biblical point of view. We consider that decriminalisation of homosexuality is not just the removal of penalties but does open the door to further involvements in the community. For example, it can be perceived that it is normal and therefore taught in our schools as an alternative valid sexual experience. We know that the New South Wales Teachers Federation have in fact embraced that view that homosexuality is a valid alternative.

I also have a record of a book being placed in the Victorian secondary schools called *Young, Gay and Proud*, which gives details of explicit how to have anal sexual intercourse. So we would consider that decriminalisation of homosexuality is indeed intruding upon the innocent in the pretence of education and giving them the opportunity of experiencing something that we feel is desperately wrong.

We also do believe that the decriminalisation of homosexuality will indeed bring a militant confrontation. We have seen the results of that in the Sydney Gay Mardi Gras and more recently in the sixth international AIDS conference held in San Francisco. For those of us who were watching the news, we saw that those militant gays refused to let the speaker continue his speech; they shouted him down. I think we ought to get in our minds that this is not a passive organisation.

It has indeed got a military basis behind it. We do feel also that the legislation must be strong enough in our community to protect the innocent. For most people in our community, "legal" means right. I want to make that a strong point, that for many people if it is legal it is morally right. We are living increasingly in a day when people are moving away from what we believe as Christians is the moral value that will enhance the community. They are moving away from that. When we decriminalise an important issue like

homosexuality, we feel that the community will then start to perceive that there is nothing really wrong with it, and we believe with detrimental effects.

Martin Luther King said—

"Morality cannot be legislated but behaviour can be regulated."—

we do believe that that is a truth—

"Judicial decrees may not change the heart but they can restrict the heartless."

We would see that if we decriminalise homosexuality that there would be no restraints upon our community embracing this particular act.

Further to our concern is that right now the Queensland Education Department is introducing a HRE program which has as part of its philosophy to teach sex education. We have great concerns that a part of the education philosophy is, rather than being built on the Christian ethic of absolutes of morality, it is built on relativisms or what we call values clarification; that there is no absolute right or wrong. I have a quote from the *Educational Digest* of March 1987—it is not in your notes—in which the teachers said—

"Teachers should not try to impose values on students. Even to teach such fundamental values as honesty or compassion is oppressive. Teachers should try to flush out or clarify students' own value system and be concerned with the processes of valuing and not particularly with the product."

They further go on to say—

"There is no reliable standard of right or wrong. Each person develops a morality which is right for him."

In the context of decriminalising homosexuality we would have a great fear that people would make a value judgment on their morality based on the majority ruling rather than some absolutes. We consider that the decriminalisation of homosexuality on the basis of consenting adults or in privacy is a very poor concession with no real significance. If we were to logically take the conclusion that it is consenting adults that is important, then we ought to also decriminalise adults who take heroin.

We do not believe the issue is the consenting adults, nor do we believe that the act of privacy in any way compensates. For if we were to follow that logical conclusion, then people who are involved in rape and incest and paedophilia in privacy equally ought not to be criminalised. We would take of the aspect that it is a criminal offence because of its offensiveness, not because of it being an adult consenting to a relationship nor because it is done in privacy.

The sociological objections that we have to the decriminalisation are that we feel that the health risks, particularly with the spreading of AIDS, are of particular concern to us. Recent figures in Australia reveal that homosexual practices are directly responsible for 88.4 per cent of all AIDS. There are many other cases indirectly responsible for AIDS.

We believe that it is an economic drain on both the Federal and State Governments. We do suggest that it is nonsense to suggest that condoms are the panacea of all AIDS ills. The St Vincent Bioethics Centre in Melbourne revealed that between 5 and 15 per cent of unwanted pregnancies were due to the use of condoms as a contraceptive. Condoms are not safe. We do not think that that is a sensible approach to take. That should be considered in the context also that many homosexuals, not all of them, have a very promiscuous activity. I have given quotes in my statement that research reveals that some homosexuals averaged 1 100 different sex partners. When one looks at the multitude of the spread of AIDS we can see that it is indeed a great health risk.

We also believe that the safe sex syndrome is indeed nonsense. We consider that the *Australian Medical Journal* report which studied 172 homosexuals in Adelaide found that virtually all of them—97 per cent—of the men approached had heard of safe sex and understood what it involved. However, less than one-third—28 per cent of them—regularly observed safe sex practices. Barely one-third—32 per cent—observed them occasionally; and over a third—39 per cent—did not observe them at all. We believe that safe sex is a myth because obviously from that particular experiment that was conducted there is no consistency with homosexuals and the use of safe sex.

Homosexual men have a rate of infectious hepatitis from 20 to 50 times greater than heterosexual males. We believe that homosexuality is physically unnatural. The rectum and the anus were not designed for intercourse. We believe there is medical evidence that makes the patient more suspect to the tearing of the mucosal lining than it does in the vaginal lining. Therefore the virus enters the body.

We are of the opinion that that is objectionable in terms of health. We believe it is also objectionable in terms of the Bible, as we will show later on.

The third thing that we want to say very quickly is that there is evidence that when a society loses its moral stability and its code of living and its sexual morals particularly, there is a decline in that society. We have quoted Dr J. D. Unwin and I don't think I need to read all of those details to you.

The CHAIRMAN: We have read those and will read them, anyway.

Mr Lewis: We also have evidence from such men as Arnold Toynbee and even one of the great philosophers of Germany—we didn't believe in his philosophy—who noted that when a society loses its moral values and loses a sense of God, there is a decline.

The fourth objection is the biblical one which I probably need to address because that would be significantly why we are here. It is our strongest conviction that the battle that we have on our hands is more one of the absolutes of Christian morality versus the relativisms of humanism. We quite clearly believe that the scripture is plain. As we have pointed out, the scriptures say, "Do not lie with a man as one lies with a woman." That is detested. There are a number of scriptures, both Old and New Testaments. We also believe that when homosexuality becomes involved in a community or accepted in a community, that there is a detrimental effect upon the

community. We do not believe that homosexuality is the only or the worst sin and the sin that is most detestable to God. We believe that there are many sins in that same bracket. However, it is clearly evidenced in the scripture that God does call it a detestable sin.

The church that we represent, the Assemblies of God in Queensland, is not against the homosexuals as people any more than we are against drug addicts, alcoholics or people with a problem. However, we are against the sin, because we feel that the sin is an offence before Almighty God. We consider homosexuality to be a perversion and closer identified with bestiality than with adultery in its peculiar offensiveness. Many scriptures point out that righteousness exalts a nation and sin is a reproach.

It is our opinion that, when a society—be it sophisticated like the Western society—ignores God's laws and God's morals, there will be a decline in its strength and energy. We suggest that that is one of the things we need to do; we need to take steps to prevent the downfall or the degrading of the society. We believe that homosexuality is conditioned and choice rather than biological or genetic. I am sure that you have read a number of those quotes.

To decriminalise homosexuality will not, in our opinion, help to control AIDS. We feel that there is a valid point to be made that, if a person is an AIDS carrier, there is no real benefit in being identified because there is no treatment available, and what is the point if a person has to identify that he or she is an AIDS carrier. Do they isolate themselves from their past?

We are also of the opinion that it is clear that homosexuality and anal intercourse in particular are considered to be the single, greatest reason for the spread of AIDS. Surely, these days we should be doing everything possible to restrain it. The decriminalisation of homosexuality takes away those restraints and gives to the public generally a conception that there is nothing legally wrong with homosexual activities. I would be rather strongly in favour of suggesting that we ought to tighten and restrain as much as we can rather than loosen the restrictions that are presently existing in homosexuality and its activities.

In conclusion I would like to point out that we are strongly committed to the Bible base of morality. We are strongly committed to the fact that the Bible is clear that homosexuality is an offence to God and man. We would request that the commission submit to the Parliament that the decriminalisation of homosexuality does not continue.

The CHAIRMAN: Thank you very much. One of our major concerns obviously relates to AIDS. It seems fairly clear that, under the existing law, notwithstanding what has been said in previous submissions, nevertheless AIDS is being spread. We have to deal with the spread of AIDS in a realistic way. One of the most useful ways to do that is with education. If the law stays as it is—and we heard what the representatives from the Queensland Association for Gay Law Reform said earlier—how would you suggest we deal with the AIDS issue in both the heterosexual and homosexual communities, bearing in mind that we have obviously a Christian position which you and many people hold and which everyone respects? Nevertheless, regardless of

their Christian position, people still have their individual rights to carry on their own sexuality as they see it. What is your advice to the committee?

Mr Lewis: I would perceive that the correct procedure is for us to teach morals with sexual education and that, when sexual education is removed from morals, it can often become an interesting area of investigation. One of the great things that we is that if people were taught to abstain—and I know that sounds a high ideal in this community—we do believe that that is the biblical standard; that we ought to teach abstinence. When a society does relinquish all its disciplines and it caters more for self-fulfilment rather than self-restraint, we obviously get the dilemma that we have today. My simple answer is that we would advocate that there be restraints, self-disciplines and abstinence taught to our community. As I said, I realise that, in our society, those are old-fashioned values that are almost missing from most of the younger people in our community.

The CHAIRMAN: If I could pursue that a little further, not in an argumentative sense but in the sense that we have to deal with the whole community and the problems it faces. It seems fairly clear to us from the private submissions that have been made to us and the investigations that have been conducted in other States that there are a number of people who live in a bisexual situation, many of whom are married men, who go to beats. They are the people who are unprotected. Regardless of the definition of "safe sex", they are not practising it. What would you advise the committee in a case where we have someone in that situation? It could be someone who is married to a practising Christian. How do we protect that woman in those circumstances from catching AIDS?

Mr Lewis: I suppose the simple answer again comes back to the aspect of teaching people how to remodel their lives. We are dealing with a community that is rapidly losing all moral values that we hold as the Christian faith. So, to address this subject we really have to say to ourselves that the ideal seems to be almost unreal; that we would say to these persons who are practising homosexuals and who are in heterosexual relationships that the Bible clearly says that monogamy is the relationship between one man and one woman that is healthy. That is the only way to live safely. This person who is practising this needs to be somehow—by law or by some method—restrained from what he is doing. I mean, we restrain people by law for murder and for rape. Why do we not consider that these same offences, which are murderous in their end result—the passing on of AIDS—why do we not consider those to be equally as important as a murderous relationship or a rapist relationship? I am saying that we could use the law to protect those who are innocent.

The CHAIRMAN: I understand what you are saying. However, my only concern is that the practicalities of that are very difficult. There is no point in having a law that is totally unenforceable. That is the difficulty. I am not talking about the law in relation to homosexuality, I am talking about the beat situation to which I referred. Nothing has been submitted to us by the gay law reform group that talks about any changes to improper behaviour in a public place. The law remains as it is. All we are looking at in this sense is private activity between consenting males. Therein lies the problem, I guess.

I was just interested in your view on that. The other thing that I want to explore with you, if I could—and I did put this to the gay law reform people, you will recall—on page 7 of your submission you say—

"Scores of our ministers could bear testimony of the many homosexuals they have seen reinstated to a happy, enjoyable, normal heterosexual life. We have a compassionate ministry to those who want to be helped out of their homosexuality. We know the change can take place."

You obviously heard me put that to them, and their response on it. Do you have a comment on that?

Mr Lewis: If we are taking the perspective that I am taking as a Christian, we say that homosexuality is abnormal and unnatural. Therefore, it is God's intention that we live normal and natural lives. If the society in which we live conditions and brings about an alternative to God's order, it is our belief that we can bring it back again. My wife is here—my only support today—and she could bear witness that we have seen many young men in our ministry who have been delivered from homosexuality. They are now married, and they make excellent fathers. We don't find it to be an impossibility. We don't believe that it is beyond a person to do that. We can bear witness, along with many of my ministry colleagues, that this can be adjusted and rectified in people's lives if they so desire to change. Of course, if the community says that there is no offence and there is nothing wrong with it, it makes it even harder for us to bring back what we call normality.

The CHAIRMAN: Tomorrow we will be hearing a submission from an academic. He says—

"The early Books (of which Leviticus is one) deal with the history of the Jews and their wanderings and persecution. In the context of a people who were not only homeless and persecuted, but who also considered themselves to be God's chosen people, the paramount consideration had to be the preservation and propagation of the race. Therefore, any form of sexual activity which could not result in procreation was banned, not so much for morals but for the more basic instinct of self-preservation."

Secondly, he said—

"Furthermore, those who cite the story of Sodom as proof of God's condemnation of homosexuality are totally silent on another moral issue raised in the account. After Sodom is destroyed and Lot's wife has been turned into a pillar of salt, Lot and his two daughters are living in a cave isolated from the rest of mankind. Worried that they would never bear children, the daughters got Lot drunk and had intercourse with him, both of them bearing sons (Genesis 19: 30-38). This is obviously incest. Yet the passages tell us that the two children became the progeny of the Moabites and the Ammonites."

Would you like to comment on both of those quotes? I put them to you simply from the point of view of giving you an opportunity to respond to them.

Mr Lewis: Theologically, I suppose that we would take the perspective that man—and this is basically where we would differ with the community today—we would say that man basically has an inclination because of Adam's fall towards sin. The humanists would say that we believe that man is basically good and that, if his environment changed, he could become good. We have a basic philosophical debate there. The things that you read in the scripture, and particularly the Old Testament, are no different from the acts of today; that man, left to his own devices, will indeed do abnormal things in the sight of God. That is the scripture right through; that man will constantly go back to his desire, his base nature, because that is the sin principle that we believe is in mankind. If we take that theological standpoint that man is basically sinful by nature and that he needs a transformation of heart, which is what the church believes, then we have the solution to many of the questions that you were asking previously. However, it is so out of context in a society that does not believe that man is basically sinful. They then accommodate—either by legal means or community acceptance—for man's sinfulness rather than endeavouring to live a life that is right before God. In each of those incidents, we do not condone what happened in those situations, but we simply say that that is true. The heart of man is deceitful and desperately wicked and, left to its own devices, it deteriorates. We don't excuse them. We say that that is a fact. One of the things about the Bible is that it is intrinsically honest and it tells the story like it really is. I don't know if I have adequately answered your question.

The CHAIRMAN: I know what you are saying.

Mr GUNN: I think that everybody accepts that AIDS is a major, insidious problem that we have to face in the future. What you are suggesting is that by decriminalising homosexuality we would be accepting it in our society?

Mr Lewis: Yes. I am saying that decriminalisation then moves to the acceptance of our community that it is no longer legally wrong—a criminal offence. I believe that that is the progression it takes. It is decriminalised and then it becomes accepted. I would predict that we would then have legislation, particularly in discrimination legislation that would actually favour homosexuality. That has been the trend in our society.

Mr GUNN: A lot of emphasis has been placed on education. I have always found that you can advise, but that advice has got to be accepted in the first place. Would you concede also that education should start and continue in the home, and that is where we fell down—as far as our society is concerned? We have spent millions and millions of dollars, for instance, in the fight against drugs—through schools, Drug Arm and various areas. However, I will say that we are losing the battle. Would you like to comment on that?

Mr Lewis: I couldn't agree with you any more than that. I think you are right on. The home is a reflection of society—strong home, strong society. We teach from the biblical perspective that God's personal institution was the home. Before he instituted the church he had the home. We do believe that if we could establish the value system in the home, we would create a group of people growing up who would have good, strong values. Society in the

educational system, in our opinion, should support what the home believes. Going back to the Christian perspective, we believe that the Bible is clear about moral rights. I agree with you 100 per cent that it must start in the home. It must be reinforced in the education system. My grave concern is that when we separate the home and the educational system and when we have the educational system wanting to teach our children the many areas of non-moral issues—particularly in terms of sex—when they want to teach the children that morality is not the issue, then we have a great conflict between what the education system, the church and the home are teaching them.

Mr GUNN: I assure you that all teachers are not like that. The educators have our children only 20 hours per week and the family has them for the rest of the time.

Mrs EDMOND: On page 1 of your submission you say that decriminalisation will lead to further militant confrontations such as we have seen in the Sydney gay mardi gras. Can you explain why this has not happened in other States where they have had decriminalisation?

Mr Lewis: No, I couldn't.

Mrs EDMOND: It couldn't be that New South Welshmen could be more flamboyant than the backwards Queenslanders?

Mr Lewis: It could be that there are more of them, such as in San Francisco. The numbers there give a confidence. It may be that as the numbers increase, the acceptance of homosexuality gains momentum. There could be a whole lot more militancy that is seen in those other States as well.

Mrs EDMOND: It could be that, no matter what, we would not have a gay mardi gras or a heterosexual mardi gras, as they have in other countries?

Mr Lewis: I agree. It could be.

Mrs EDMOND: When you refer to consenting adults, you say that because two adults agree to do something against the law, this autonomous consent must not make it right or lawful. I wonder how you regard laws? That, to me, implies that we should be bringing in laws against extra-marital sex—both pre-marital and adultery.

Mr Lewis: In the context of what we are saying here, because of the unnaturalness of homosexuality, we would consider that there needs to be legislation protecting the community from that. I do not particularly agree that we need to do that for fornication or extra-marital affairs, but because of the unnaturalness of the homosexual act, we should protect our community. The argument is more reinforced when we see the outcome of the spread of the AIDS disease. It makes it more essential that we do make it a criminal offence.

Mrs EDMOND: Continuing with the privacy issue, you are saying that if that is acceptable, why not change the law and decriminalise rape, incest and paedophilia? I put it to you that there is very much a victim in each of those areas; whereas, if there are two consenting adults, there is no victim.

Mr Lewis: I agree. The issue there is that privacy does not make the thing legal. I am arguing that the unnaturalness of the act means that there must be legislation. That is my argument.

Mrs EDMOND: The other area in which I take exception to your document is the area of choice. You imply that homosexuality is a matter of choice. I put it to you that not all that long ago—150 or 200 years ago—they were burning homosexuals at the stake. I find that a fairly persuasive argument against being a homosexual, yet it did not eliminate the problem.

Mr Lewis: I would put the argument that the same thing could also be said about murderers and rapists. They were shot and burned, but that did not deter them, either. I would hardly think that it is a valid argument to say that the consequence ought to deter, because there would be no murders if that were the case.

Mrs EDMOND: Coming from a health background, I have a fair interest in AIDS, where it is going and where it has been. I put to you that in Zaire it is not a gay disease at all; it is a largely heterosexual disease with massive ramifications. It is in particularly that area that we look like wiping out an entire community.

Mr Lewis: I have been verbally informed—and I haven't seen this written—but I do believe that one of the methods of contraception in some of those African countries is that they have anal intercourse to prevent conception. Whether that is one of the contributing factors to why AIDS is such a spreading disease there, I don't know.

Mrs EDMOND: You seem to be looking to legislation to enforce religious beliefs. Is that a fair comment, that all of your arguments against homosexuality are based on your church's interpretation of the Bible? This really is not a theocracy, is it? How valid are they in modern-day society?

Mr Lewis: That is an excellent question. If we hold the truth—which I believe sincerely we do—then God's laws are not just for some being up in Heaven who gets a great ego kick out of people doing what He says, but His laws are the best for those whom He created. I suggest that if those whom He created follow His laws, it is for their happiness and their ultimate benefit. We are persuaded that the Christian ethic and the Christian code of living does produce ultimate happiness. It is not just a religious thing; it is the ultimate happiness of mankind.

Mrs EDMOND: We have a divergence in our society of gods, of beliefs, of churches and of people who hold none of those. Have we the right to impose the pronouncements of one area upon all of society?

Mr Lewis: If we sincerely believe that that is right—and the Christian church does sincerely believe that the word of God is right for man's benefit—we have an obligation to impose what we believe would be the healthiest thing for mankind.

Mr SCHWARTEN: I may have misconstrued what you said, but you judge people who do homosexual acts in just the same way as murderers, thieves, embezzlers and so on? They are no different?

Mr Lewis: In the eyes of God, all sins are of grave consequence. We do say that there are some sins that affect people on their own and other sins that affect the community at large. Murder affects somebody else, as does rape. Homosexuality is clearly affecting our community. We have an epidemic of AIDS. We cannot say that these individuals are having a relationship on their own that affects nobody else. When there is a sin that affects the community, we say that there ought to be legislation that prevents that. So I am not just throwing them all in one barrel. From a practical point of view, and most certainly from a protective point of view, we believe that we ought to be protected from those sorts of things.

Mr SCHWARTEN: There is evidence to prove that criminal activity cannot be prohibited. For example, the prohibition of alcohol in the United States did not stop people drinking.

Mr Lewis: That's true.

Mr SCHWARTEN: Your view is that if we were able to strengthen the laws on homosexuality—for example, making it mandatory for a life sentence to be imposed—we would be able to stamp out AIDS?

Mr Lewis: I am not sure of the medical implications of that statement. However, I certainly do think that when a community like ours has such rampant freedom and sexual promiscuity, then the increase of AIDS will take place. I understand where the questions are coming from, but we have to understand that I am coming from a perspective that if man would obey God's laws, man would live healthy and harmonious relationships together. From the beginning of time to the modern times, man has broken those laws.

We are saying that we live in a society that has basically disregarded the laws of God and that now we have to find some methods of restraint. I suggest to you that the decriminalisation of homosexuality removes the restraints. It is my opinion that we need to be putting on more restraints to stop it. The heart of man is not changed because of legislation. That is what the law is all about; it did not change the heart of man. I am almost tempted to preach here.

The CHAIRMAN: We do not have the time, unfortunately.

Mr Lewis: Just let me say that the heart of man is basically changed by any encounter with God. That is what we say changes the heart of man. When that changes, the need for laws and regulations would be reduced greatly.

Mr SCHWARTEN: You said that you do not believe that there is a need to identify the people who are AIDS carriers. I found that very interesting.

Mr Lewis: My argument is that decriminalisation of homosexuality will not necessarily bring all those people who are AIDS carriers out into the forefront to be identified. I quoted one of the medical reporters in the *Courier-Mail* who repeated a story of a lady who contracted the AIDS virus by a blood transfusion and came to the conclusion, "What can I do about it, anyway?" It is very possible that, in our community, a number of AIDS victims may feel that there is no benefit whatsoever in being tested and finding themselves

positive. What do they do from there? They are obviously going to isolate themselves by telling everybody that they are AIDS carriers. Because there is no medical treatment to help them at this stage, there is no positive aspect to being tested.

Mr SCHWARTEN: I would have thought that the more you drive something underground—which excessive laws tend to do—the more chance there is for those diseases to go undetected. Do you believe that?

Mr Lewis: No, I don't totally believe that. There certainly is a degree of truth in that. I have heard the argument about the legalisation of brothels, if I may digress slightly. I have been to [downtown Amsterdam with my wife. We visited the red-light district, which is supposedly the supervised area of prostitution. It is like stepping into another world. I cannot believe that removing laws somehow creates an environment of safety and supervision. They have got sexually transmitted diseases in Amsterdam with which they have got no way of dealing or treating medically. So I do not hold to the view that if you remove restraints, legally, you can then supervise. It is the same with this issue here. If we remove the laws, we will lose the supervisory capacity.

Mr SCHWARTEN: Do you believe that while we are looking at the laws relating to homosexuality, we ought to be looking at the laws on heterosexuality? You mentioned unnatural acts before. Would you take the view that some of the activities that heterosexuals engage in are unnatural?

Mr Lewis: If they were offensive to the person who was being offended, I would say that they ought to be reviewed, most certainly.

Mr SCHWARTEN: What do you mean by "offensive to the person who was being offended"?

Mr Lewis: If there were acts being committed on a person who was objecting to that—be that some form of sexual perversion or whatever—I believe that there should be laws that protect people even in heterosexual relationships.

Mr SCHWARTEN: What about when homosexuals—and it may well be the same act that we are talking about—are not offended by that act being perpetrated upon them? So we do not need to regulate that in any way?

Mr Lewis: It would be a very difficult thing to supervise, anyway. If people who were involved in it did not complain, it would be a futile law.

Mr SCHWARTEN: Clearly, that is the case now. The seven people who were prosecuted did not complain. Complaints were made about them. I am not sure how they came to be detected. To go back to your definition, the persons upon whom those acts were being carried out obviously did not protest. Therefore, to apply your logic to the situation, one would have thought that there was no need for us to consider that an illegal act?

Mr Lewis: My reply to that would be that if there is a condition in society that perceives that what Christians believe to be unnatural is in fact not unnatural, then we have a great difficulty because there will be people foisted upon our society who will commit acts together and not having any

real conscience about it. I suggest that one of the scriptures in Romans says that that is exactly what does take place. There are minds being given over to what God calls a delusion. It is not hypothetical; it will increase as society degrades its values.

Mr SCHWARTEN: Do you believe that by decriminalising the laws as they currently pertain to homosexuals that the number of homosexuals will increase?

Mr Lewis: I do. I believe the very acceptance of it—particularly in our educational system—will make it a valid alternative. I am of the opinion that homosexuality is a conditioning and a taught experience and, if that increases, if the Education Department and society generally starts to accept it, I believe it will increase. History will prove that in the Roman Empire it increased.

Mr SCHWARTEN: The current figures that have been given to us certainly do not indicate that that is the case. The figures that I have seen are at odds with yours. That is a matter of judgment that we will have to make.

Mr SANTORO: Most of the questions that I had were answered by you. I would be grateful if you could supply the committee, either by fax or letter, with the New South Wales Teachers Federation's position dated 22 March 1990 and also a copy of the article that you referred to containing the *Medical Journal of Australia* survey of 1987. I have not seen those and I would be grateful to have them, as would the other members of the committee.

Mr Lewis: Yes.

Mrs WOODGATE: As with Mr Santoro, most of my questions have been answered previously. I was particularly interested in your comments to Mr Schwarten about heterosexuals. At page 9 you stated referred to reporters. You are really only reporting one reporter's opinion about the advice that you are better off not knowing. Are you totally against all testing for AIDS?

Mr Lewis: No, I am not.

Mrs WOODGATE: But you do say that it would be reasonable to assume that, because it is incurable, there is no point in its being diagnosed?

Mr Lewis: Yes. In the context of the argument that, if we decriminalised homosexuality it would bring forth more people who are suspected or having AIDS, I say that that is an invalid argument.

Mrs WOODGATE: You do not think that that is a good thing and that people would come more freely there because there is no worry about their being prosecuted by coming forward?

Mr Lewis: It is not a good thing if the decriminalisation increases the activity of homosexuality. That is not a good thing.

Mrs WOODGATE: You really believe that decriminalising the activity between consenting adults in private will increase homosexuality?

Mr Lewis: I do.

Mr HARPER: You indicated that you believe that we have a need to encourage restraint. I gained the impression that you have accepted that we have a percentage of people who are homosexual in nature and that the law should at least be encouraging restraint. I am not putting forward my own views deliberately; I am wanting your views. At one other stage you said that we should be taught restraint. I wonder whether you or your church have any scientific basis to indicate the view that has been put forward in various places—I am sure it will happen again tomorrow, and will be put repeatedly by some groups—that there is at least a percentage of the male population, and indeed the female population—although, with homosexuality and changing the laws we are dealing principally with males—whose genetic material has led them to be homosexual in nature. In other words, as was put by the Queensland Association for Gay Law Reform, that the make-up of a male and a tendency towards homosexuality certainly is developed before the age of 16 and probably has a genetic origin. Do you have any scientific views on that as opposed—I accept your views as a Christian—but do you have any express scientific views on that?

Mr Lewis: We do have in the submission a number of people who argue that it is not a biological or a genetic deficiency. I have clearly got those down and quoted them. I do not know what other evidence you would be looking for. We have two distinct arguments. Some would say it is biological, it is genetic, and there are those of us who believe that there are others—psychologists and trained people—who say on the other side that it is not biological or genetic. So, again, I suppose it is a matter of opinion.

Mr HARPER: In your submission, you rely on the fact that it is a Christian belief?

Mr Lewis: Yes. If it is biological or genetic, it seems unfair that a God would impose upon people things that are beyond their control—if it is a physical genetic thing. However, we believe that it is a choice of man and a conditioning of the community in the society in which we live that determines that direction. We believe it is more that than it is genetic or biological.

The CHAIRMAN: Mr Schwarten raised the question about activities between heterosexual couples which may not be natural in the broad terms of reference and he asked whether you thought a law should be introduced in relation to those and you said it was impractical. What is the difference between that, where you have a consenting husband and wife or a consenting male and female, and two consenting males? One of the big problems about this law is the enforceability of it. We are not talking about many of the other things that have been raised in terms of beats or mardi gras. People can raise those issues, but we are talking about consenting males in private. You said that law was impractical. If you are talking about a male and female having anal intercourse and two males having anal intercourse and you talk about one being unenforceable or impractical from the point of view of the law, what is the difference from our point of view? I know your Christian view, but bear in mind that we have to make a recommendation to Parliament.

Mr Lewis: My answer to that question would be that we have a dilemma there, that, if you do decriminalise it, there will be no law from which

a person can draw from to be protected. I do not think that there is a great deal of difference if both people are consenting. There is nothing that you can reinforce if they are both consenting.

The CHAIRMAN: We would only be talking about a law—the committee has no view on this yet—between consenting males. Do you see my point?

Mr Lewis: Yes. I suggest that that is just the start of the door being opened. We have seen in other places that, when you open that door, decriminalising becomes the accepted.

The CHAIRMAN: There are now some treatments available to treat people for AIDS. There is certainly not a cure, but there are significant treatments available that delay the process of it. If persons tested and found that they were positive, they then have the opportunity to go through one of the programs to delay the effect of that and prolong their life. Would that change your view about homosexuals being willing to be tested?

Mr Lewis: I would have to balance that out with the other aspect of it. If decriminalising then makes it acceptable, will the increase of homosexual activity increase likewise? I would have to balance those two things out. I most certainly would be in favour, if people could be treated, of the testing being available to them and for them to be treated. However, we have the paradox here that at least at the moment there is a legal restraint on homosexuality. If we remove that, I believe that it will open the flood gate to more activity.

The CHAIRMAN: Thank you very much for your time and your submission.

Mr Lewis: Thank you.

The CHAIRMAN: We now call the Brisbane Youth Service. We thank you for your patience. As you would understand, we are running into a little problem with time. For the record, could you identify your names, addresses and who the spokesperson is? Could you make very brief introductory remarks?

Ms Graham: My name is Carol Graham. I live at Flat 1, 244 Vulture Street, South Brisbane. I am the coordinator of the AIDS prevention project of the Brisbane Youth Service.

Mr Smith: My name is Brendan Smith, of 42 Wellington Street, Petrie Terrace. I am a community arts workers on the AIDS prevention project with the Brisbane Youth Service.

Ms Williams: My name is Karen Williams. I live at 73 Warilda Street, Camp Hill. I am a youth worker on the AIDS prevention project.

The CHAIRMAN: We have read your submission and are aware of the basic thrust of it. Could you give us a short summary by way of introductory remarks?

Ms Graham: For those of you who are not familiar with the Brisbane Youth Service, it is a community-based organisation that has been established for the last 14 years and is sponsored by five inter-city churches. The service responds to marginalised young people offering them a variety of specialist support. For example, we have a family worker, a youth housing worker, a community artist, the AIDS prevention project and also a detached youth work program which enables us to make contact with young people where they congregate.

The majority of these young people have experienced early separation from their family and often have been placed in alternative care. Also, they have been generally marginalised from mainstream education and, hence, they are quite vulnerable both socially and personally. I am sure that you are all aware that adolescence is a difficult time for young people and presenting young people with much confusion. In my experience as a youth worker, I have seen that adolescence is a time for sexual exploration and also development of sexual identity. Therefore, it is essential that these young people receive clear non-judgmental messages about sex and sexuality. From experience with working with these young people, we have ascertained that they are continually alienated from the community; and gay youth are even more so alienated, which is reinforced by the current legislation.

This makes our work a lot more difficult, because a lot of young people will not come and seek out assistance because of the current legislation, or just in terms of their own self-worth or self-esteem. Throughout my work with young people, my observation has been that gay youth have demonstrated to me time and time again to be just as sensitive and caring as heterosexual youth. We have seen no evidence at all that gay young people are more likely to molest young children or be offensive or abusive. Furthermore, there is no evidence that being gay is impacted by the legislation. We are well aware that there are gay youth, and obviously the legislation has no impact on that.

AIDS education is further undermined by the current legislation, making it more difficult to get young people to adopt safe sex practices. I am sure that the members of the committee will be concerned, as we are, that these young people are quite sexually active. Therefore, we cannot stress enough the importance of our work to educate them and to ensure that they are having safe sex, if they are having sex at all, and also to enable them to say "No" if that is what they are wanting, if they are not wanting to partake in sexual activity.

In terms of the Western Australian experience, we are aware of the whole issue surrounding the promotion of homosexuality and the fact that a lot of AIDS organisations need to have fairly explicit literature to educate young people, or to educate anyone. However, in relation to young people, we would be cautious about introducing such reforms, because that would severely jeopardise our work. For effective AIDS education, it has been known world wide—and the World Health Organisation supports this—that information needs to be explicit. We are also aware of the diversity of sexual practices and the need for young people to be informed about what sexual activity is safe and what is unsafe. So we need to inform them to enable them to make choices to ensure their safety and the safety of others.

The other two areas that we were wanting to comment on or make recommendations on relate to the age of consent. That is written in the booklet that the commission put out. We would certainly like to see that the principle of sexual equality and anti-discrimination is considered and that the age of consent for males and females be the same irrespective of whether the sexual act is heterosexual or homosexual.

The other aspect that we wanted to talk about was soliciting. We would like to see that homosexual soliciting is only an offence in situations where heterosexual soliciting is also an offence so that there is no differentiation and that they are considered equal.

The CHAIRMAN: In your work with people in the homosexual community, do you find a reluctance under the present law and present circumstances for them to be AIDS tested?

Ms Graham: Yes, there is a reluctance. There is a reluctance for them to identify themselves as homosexual and I guess they have that fear that if they do it is perceived as a homosexual disease—or that is how young people perceive a lot of them, anyway. So, yes, there is that.

The CHAIRMAN: If the law was changed to decriminalise homosexual acts between consenting males, in your experience, do you think that would change that situation—in terms of testing, I mean?

Ms Graham: I think it could change it slightly but I think there is also that whole point that young people should only be encouraged to test if they are wanting to do that. I don't think they should be forcibly encouraged; I think they should be informed of what that means, whether you are positive or negative.

The CHAIRMAN: I am talking about an education campaign, I am not talking about legislating to make it compulsory.

Ms Graham: We certainly educate young people in terms of what it means, whether you discover you are negative or positive. As I said before, the young people that we are dealing with have very few supports and their lives are fairly hectic and chaotic. The likelihood of them looking after themselves is probably pretty minimal. So I guess that is another whole issue altogether—the whole issue of testing.

The CHAIRMAN: It is relevant to this issue, though: you talked about the need for explicit literature and so on and in your submission you talked about the AIDS education preventive program and so on. In your view, is the AIDS education campaign that has been waged by health authorities getting through to the people in this category?

Ms Graham: I don't think mainstream education is. I think probably specific programs are. I think the way our service operates, it is actually encouraging young people to participate in the program themselves and they actually come up with education materials. So it is very specific; it is very target specific. So they come up with the messages, they come up with the illustrations.

Mr HARPER: Carol, you referred to soliciting and your view that the penalties for soliciting for homosexuality should be the same as for any other form of soliciting. We have heard and you have heard Mr Lewis make comments in regard to some of the scientific opinions that have been expressed which, with the submission he gave to the committee, indicated a line of thinking that homosexuality is something which is developed as a social pattern rather than, as I asked him, whether it was biological or genetic. So the question of soliciting becomes very important. If indeed it is not a biological trait of an individual, obviously soliciting is important. Do you believe the soliciting is widespread?

Ms Graham: There are different definitions of soliciting, I guess. A lot of the young people that we work with are probably forced into the situation of soliciting, but that may be in exchange for a bed, for food, for clothing. It may not be a direct exchange for money. So it depends what you refer to as soliciting.

Mr HARPER: Really, what I am asking, if I may interrupt, is what it gets back to is the practice of homosexual activities being widely encouraged by people persuading other people to take part in those activities, be it for a bed, be it for a meal or be it for finance. Do you believe it is a spontaneous thing or do you believe that it is actively being encouraged?

Ms Graham: I don't know about it actively being encouraged, but certainly I think some young people are forced into the situation of soliciting for survival. But that happens with both males and females, so I think there is an equal incidence of males soliciting as well as young females soliciting.

Mr HARPER: Bearing that in mind, would you care to comment on your own views as to that scientific argument? As Mr Lewis said some say, it is a biological and genetic phenomenon; some say it is something that is

simply a social characteristic that is developed. In your experience working with young people, would you care to give any view on that?

Ms Graham: I would certainly say I don't believe that it is a learned experience necessarily. I think some people are homosexual and others aren't. I think that experience is there, not necessarily having experience in actual activity, so to speak. I don't know if I am making myself clear.

Mr HARPER: When it is inbuilt? You believe that it is something that has developed or is inbuilt?

Ms Graham: Yes. It can also be influenced by a family experience or whatever.

Mr HARPER: I am really only referring to a percentage, I guess, because I don't think anyone would argue that some people are persuaded. Thank you.

Mrs WOODGATE: Carol, you mentioned earlier that you are a representative of five churches. Could you tell us which churches they are?

Ms Graham: Yes. St Andrews Uniting Church, St John's Cathedral, All Saints, St Stephens and the Wesley Central Mission.

Mrs WOODGATE: I congratulate you on your submission. It was short. You said more in that one and a half pages than some people said in 50 pages of submissions. We received over a thousand submissions. We read them all. It is a pleasure to pick up something like this. You said it all. After reading it again, I wondered why we got you in because there is not much more that we could ask you that is not covered here.

In your last paragraph you say—

"Brisbane Youth Service supports and strongly recommends gay law reform."

To what extent? Would you expand on that a little?

Ms Graham: We certainly support decriminalisation, but also those other factors that I put in—I would like to see that there isn't a clause about the promotion of homosexuality.

Mrs WOODGATE: Like the Western Australian clause?

Ms Graham: Yes. I think the age of consent should be the same as for heterosexuals. There should be no differentiation. The other one is about soliciting, that I think there should be no differentiation.

Mrs WOODGATE: What is your personal opinion on the preamble of the Western Australian legislation?

Ms Graham: In relation to the——

Mrs WOODGATE: Are you familiar with the preamble?

Ms Graham: Yes. That is in relation to the promotion of homosexuality, is that right?

The CHAIRMAN: No, that is sections 23 and 24.

Mrs WOODGATE: It is the preamble where they say the Parliament doesn't approve——

Mr HARPER: It sets out a point of view.

Mrs WOODGATE: It is the point of view of the Parliament. You don't approve of it?

Ms Graham: No, I am not familiar with that.

The CHAIRMAN: It is a statement at the beginning which basically says the Parliament doesn't approve of it, and then the Act goes on.

Mrs WOODGATE: You say—

"The simple fact is that current legislation against homosexual behaviour makes working with young people more difficult than it need be."

What do you specifically mean? Just the fact that it is a criminal offence?

Ms Graham: Yes, and I don't think young people have been encouraged right from the word go to talk openly about their sexuality or about sex, but particularly about their sexuality, because of the society view on homosexuality.

Mrs WOODGATE: Thanks once again for saying it all so briefly and so well.

Mr SANTORO: In your experience with working with young people, some who display at an early age homosexual tendencies, have you formed an opinion as to when these young people became manifestly homosexual? Do they tell you of instances which give you some insight? We have heard references right throughout the morning—often conflicting references—as to when somebody does in fact become a homosexual or not. Probably the best scientific authority that I have been able to come across is this book called *Brain Sex*, which in turn I find inconclusive, anyway. I suppose you need to then get back to case studies. Have you formed an opinion as to when the sort of people that you deal with became homosexual? Do you think that they were born that way or that they were conditioned at home through general community influences, pressures? Have you formed any opinions on that?

Ms Graham: I don't think there is one set way.

Mr Smith: I am just thinking that perhaps maybe that doesn't have any significance on whether there should be law reform or not. If people are born homosexual, then they are homosexual and I think that is the majority of situations that occur. I don't think that if people decide to become homosexual that that should influence decriminalisation.

Mr SANTORO: It is important in the eyes of some people. I am not at this point of time expressing any personal views. It is important to some people such as representatives of the church that if somebody was born a homosexual, some may say in fact that the Christian doctrine would dictate that they have got no choice, that that is the way God made them. That is the way some people with a Christian viewpoint would put it. So it could have an influence on how views and opinions are formed. I was interested in that, irrespective of what we are discussing.

Mr Smith: We are supported by the inner-city churches in what we do.

Mr SANTORO: I have a follow-up question in relation to that, actually.

Ms Graham: Certainly, from my experience of working with young people, most of them who say they are gay have been gay from a very early age. Their first sexual feelings or fantasies were homosexual, or with the same sex.

Mr SANTORO: The view that you express in this brief, has it been sanctioned by the five churches, by the governing ministers?

Ms Graham: We have representatives from those churches on our management committee. The submission was endorsed by the management committee. I am also aware that three of the denominations are actually giving evidence as well. I am also aware that Christians have very differing opinions on this whole issue. But certainly the submission was endorsed by our committee.

Mr GUNN: There is no doubt that your service is very concerned about the spread of AIDS. Do you consider that decriminalisation will increase homosexuality?

Ms Graham: No, I don't believe that it will increase it, and there seems to be no evidence to indicate that it would.

Mr GUNN: Could you give me some indication of the number of young people who come forward to seek your assistance?

Ms Graham: That's a hard one. The service itself is probably in contact with about 300 to 500 young people a month. Some of those may be repetitious, like the same young person, but that would be the number of contacts.

Mr GUNN: Are you working in conjunction with the Department of Children's Services in this matter?

Ms Graham: We are funded by the Department of Children's Services. The AIDS project is actually funded by the Health Department but most of our service is funded by the Department of Family Services.

Mr GUNN: From most of the evidence that we have heard this morning, the most vulnerable in the community are youth. I think you might concede that, too.

Ms Graham: Yes.

Mr GUNN: Are you aware of the number of young homeless people in Brisbane who live a feral type of existence at all—young homeless people who live under bridges?

Ms Graham: I think there is a small percentage that do that, but when we talk about homeless young people we tend to refer to young people who live a fairly itinerant life-style. They move from place to place. They may have a flat for a week and all their friends stay in that flat, and so it goes on.

Mr GUNN: They are the type of people I am talking about. Would any of them come and seek your assistance at all?

Ms Graham: Yes.

Mrs EDMOND: I congratulate you on your work. Youth suicides have been a concern of mine. Have you seen people who have either attempted suicide or who have thought about it? Have you any idea of why? Is it to do with their concern about their sexuality?

Ms Graham: Certainly a lot of the young people that we are in contact with do attempt suicide on a number of occasions. I don't think you can put it down to one single factor. I think there are a lot of factors involved. A lot of them have experienced incredible abuse from their families. I think it is a sort of conglomeration of issues; the fact that they have no income or a low income, they have no housing and lots of outstanding legal matters. I don't think you can put it down to one particular thing. I am certainly aware that some of the young people I have worked with have had a lot of conflict with their families because of their sexuality.

Mrs EDMOND: You say a lot of these children have been sexually abused. Where has that taken place? Has that been within the family, or has that been because of their life?

Ms Graham: That has been predominantly within the family.

Mrs EDMOND: That is why they are on the streets?

Ms Graham: Yes.

Mr SCHWARTEN: Earlier, in response to Mr Harper's question, you spoke about soliciting. This leads to something else, and that is why I need to know. Are the kids on the streets who are performing homosexual acts actually homosexuals? Are the kids on the streets who are being solicited or are soliciting themselves and performing homosexual acts—are they homosexuals?

Ms Graham: I can't say whether they are homosexuals, or not.

Mr SCHWARTEN: Are the majority of them?

Ms Graham: There are some who identify as homosexuals, and there are others who don't. Even though they are soliciting, they don't perceive themselves as homosexuals.

Mr SCHWARTEN: Would the sort of age group that we are talking about there range between 15 and 18?

Ms Graham: Between 14 and 20/21.

Mr SCHWARTEN: So it encompasses that age of consent question, which is what I am leading to. It has been said to us as a committee that you could not possibly allow the age of consent below 18 because it would enable somebody to choose a homosexual life-style over a heterosexual life-style without being able to define their sexuality. I am not saying whether or not I agree with that. That is the statement that is made in support of having a differential between the age of consent for heterosexuals and the age of consent for homosexuals. I think you would be a person who is placed in a pretty good position to see people develop their sexuality, especially given that they are vulnerable, poverty stricken and all the rest of it.

Ms Graham: Simply the fact that adolescence is a time of exploration—I have real concerns about the age of consent being 18. A lot of the young people who we are in contact with are sexually active. Some of them are sexually active with other peers who may be of age of consent, but they could be charged for having sex with those younger people. I have great concerns about that.

Mr SCHWARTEN: You would say without any hesitation that somebody who had a homosexual encounter at, say, 16 is not necessarily diecast for the rest of his or her life as a homosexual?

Ms Graham: No.

The CHAIRMAN: Thank you very much. We appreciate your submission and your help today. Before we proceed, I wonder if I can get some assistance from the next two representatives who are here, namely, the Baptist Family of Churches and the Catholic Social Welfare Organisation. We have a small difficulty in that we need to finish at 1 o'clock. We have to have a small meeting ourselves to digest some of the material that has been put before us. I understand that the Catholic Social Welfare Organisation has a conference on. Who are the representatives from the Baptist Family of Churches? Would you be offended if you gave evidence at 2 o'clock instead of now, or do you have another commitment?

Bishop Gerry: I have an appointment at 3 o'clock at the Gold Coast. I am prepared to be fairly brief.

The CHAIRMAN: We are happy to sit on to assist you. It is just that the submissions this morning were a little weightier than we had anticipated, and perhaps we were a little more verbose than we had anticipated.

Bishop Gerry: Very well.

The CHAIRMAN: We will invite the Baptist Family of Churches to come forward and we will proceed from there. Would you state your name and address for the record?

Rev. Solomon: My name is the Reverend Stan Solomon. I live at 18 Norval Street, Salisbury, 4109. I am the general superintendent of the Baptist group of churches in this State.

The CHAIRMAN: Could you make a couple of introductory remarks, bearing in mind that we have read your submission and have had an opportunity to study it in some detail.

Rev. Solomon: I will try to be brief. The position of our churches varies very little from the position of Pastor Lewis earlier. That may assist things reasonably quickly, too. I represent 154 churches. Baptists differ from other churches in that each church is an autonomous organisation. We don't have a hierarchical system in which I or anybody else tells them what to believe or do. We have a basic agreement of how we work together, but there is no hierarchical system. However, we conducted a forum of 200 representatives of churches on this issue, and they voted very strongly in favour of retaining criminalisation. I guess our position stems from our world view which is that there is a God, a creator, an infinite spirit person who lives in another dimension co-existent with this dimension which He has created. That is a position of faith. It is as much a position of faith as is the assumption that we start from nothing and this world in which we live, and society and these people have just emerged by chance.

We acknowledge at the start that ours is a faith position and a world view based on a God who made us and who loves us; defining "love", as we believe it, as that which has the best interests of the loved one at heart. We believe that God created man and loves man and woman and loves us; that is, He has our best interests at heart. Therefore, He invented sex as part of all that. He created it, and therefore we believe that sex in its proper relationships is good and valid and a wonderful gift of God. We are not, therefore, anti-sex; we are against the abuse of it. We do believe that homosexual acts are an abuse of the God-given expression of true love. Therefore, on that ground, which is biblical but which goes earlier than the laws of Moses and Judaism, to the very creation of man himself and to the evidence of the Book of Genesis, we believe that God created sex and we believe that homosexual acts are an abuse of that. We believe that on biblical grounds as well. You will see that in our submission. We believe it on community grounds. We do believe that homosexual acts do deprave society if they are let go. We do believe on medical grounds as well that we should oppose decriminalisation.

Some people say that we have a moral law and a criminal law. We believe that the moral law or the moral code of a society is only expressed in its criminal law, and we don't have a separate code. Therefore, we support the retention of criminalisation of these acts, not because we want to see people punished but we believe that the law lays down the ideal for our society. We believe, therefore, that the law should retain this non-support of homosexual acts as the ideal held before our society. Perhaps I will leave it at that and answer some questions.

The CHAIRMAN: As you would appreciate, this committee has a respect for all views that are put here and respect for the views put forward by the Baptists. In fact, yesterday I attended the 135th anniversary of the City Tabernacle Baptist Church and had an opportunity to talk to some of your parishioners or fellow worshippers.

There are a number of problems that face us, because we have to make recommendations to the Parliament in relation to laws. As you would have heard, we have dealt with the problem of AIDS. You would have heard what we said to Reverend Lewis when he was here, in terms of the questioning of the point of view. I acknowledge that your submission is compassionate. On page 2 you say—

"Baptists believe that God loves homosexual people and is concerned for their welfare, and so therefore are we."

On page 3 you say—

"We recognise that homosexual acts in private are difficult to police, yet reiterate our opportunity to decriminalisation of such acts."

The real dilemma that we have as a committee—and it was a hypothetical situation that was put to Mr Lewis—there are some heterosexual couples who do engage, for example, in anal sex, which is a matter that was dealt with differently by him. The law finds it very difficult to intervene in private situations where there are consenting males. What would your response be to the question that I put to Mr Lewis in relation to the Christian woman who is married to a bisexual man who hides the fact of his homosexuality and does frequent beats or whatever, practises unsafe sex, and she therefore is at risk of catching the AIDS virus? Firstly, how would you respond to that question, bearing in mind that one of the arguments is that you can deal with that problem by educating people in a public and open way? What advice would you give the committee for that problem?

Rev. Solomon: Firstly, I would say that you are not perhaps quoting the commonest case, but an uncommon case. I don't believe that we should make our idealistic laws and our moral laws according to a narrow band of exceptional cases. However, that does not obviate the problem that this hypothetical lady faces. Obviously, education is part of our answer to that question. We believe that the law has an educative function as well as a preventive function. The teaching that surrounds that both in the home and at school as well as in other situations is important. The privacy of a given situation is almost impossible to police. We recognise that, but that does not necessarily legitimise wrong acts. I believe that we need to retain somehow the statement that we believe these acts are wrong even though we cannot police them. Mr Lewis used the argument as well that private acts do have public consequences in the ultimate. Although it is impossible to police, I believe we could retain the law that says and indicates to people that, although we cannot police them and although we cannot enforce them, and even though we perhaps do not want to punish them in a criminal way, nevertheless we believe those things to be wrong and we would encourage these people to act accordingly.

The CHAIRMAN: Bearing in mind that AIDS is the problem it is and that any Parliament has the responsibility for AIDS education, the difficulty that we are confronted with here is how to deal with educating a percentage of the population? We are just dealing with homosexuals at the moment. We are not trying to say that it is any more a homosexual or a heterosexual disease, but how do you deal with educating a percentage of the population in safe sex practices to stop the spread of the disease? Admittedly, I gave you one possible outcome with the Christian wife in those circumstances. However, the major group at risk is bisexual men, not necessarily those who are going through the safe practices. How do you educate them whilst the act is still illegal? How do you get them to reach a stage at which they will take preventive measures to stop the spread of the disease? The bottom line is that even if the law adopted exactly what moral decision you wanted from today on, homosexual acts would still go on. I think we accept that.

Rev. Solomon: I accept that homosexual acts will still go on. I believe that men do not come for testing not only because of a fear of the law. As a matter of fact, I do not know that the law in this matter creates such a fear of prosecution in men. I believe that many of them do not come for testing because they do not even want to know whether they are sick or not. In other words, I think their homosexuality and their expression of it is such a priority for them that they would rather not know whether they had AIDS or not. I know that that is a broad, general statement. It is very difficult to make broad, general statements like that. Yet I think that is a major factor in their not coming forward for testing rather than for fear of the consequences.

The CHAIRMAN: Do you accept that the Government has the responsibility for AIDS education to try and stop the spread of it?

Rev. Solomon: Yes, I do.

The CHAIRMAN: How would you advise the committee? I am not trying to be difficult. I am trying to seek your advice, because all views have to be taken into account. How would you advise a Parliament to act in order to stop the spread of AIDS?

Rev. Solomon: Firstly, decriminalisation of homosexual acts would not have any effect. However, the education process should reach the people who are concerned and who need to be presented with the safe sex principles. The Government is already using television and so on. From our Christian perspective, we would like to believe that we have seen many examples of people changing and their [life-styles being remodelled by choice because of a change within. However, it is important to start with the younger ones and at least let them know what is right and wrong and what is safe and unsafe. The education process needs to be started at a younger age.

The CHAIRMAN: Does that mean that you would support a specific AIDS education campaign directed at homosexuals?

Rev. Solomon: Yes, I think so.

Mr HARPER: Your submission was very concise and you put forward your views very well. As the chairman did, I touched on the points where you referred to God loving homosexual people and being concerned for their

welfare. You referred to your opposition to the acceptance of homosexuality as being normal. I am not reflecting on those views at all, but I wonder whether your church has undertaken any work in that area? That leads to the question of the basis for the views which you have expressed, which are the views that have been put to us by a number of people.

Rev. Solomon: I have to admit that, no, we have not done any scientific research in that sense of the word. We have relied on material from other people. I am not really in a position to quote details of that. I remember that Mr Lewis quoted a couple of documents which you have asked for. I have seen some material from those documents and from some others as well. It would be dishonest of me if I said, "Yes, I know this, that or the other."

Mr HARPER: With respect to the gay community, it seems to me that one of the major concerns of the community in general is the problem of AIDS. That has become a real issue, as has this fundamental question of whether the fact that homosexuality is an offence under the Criminal Code is discouraging those people who practise it in private from coming forward for testing, which then has an [ongoing effect on the total community. What I am trying to learn is whether that is the case or whether you have expressed a view that probably it is not?

Rev. Solomon: Yes, I still hold to that view that it is not fear of prosecution that governs whether the majority come forward for testing. There are a lot of other issues, one of which could be the stigma of homosexuality which society tends to place upon people. I do not necessarily believe that that stigma simply emerges from the churches. Despite some polls that are quoted, there is a fairly widespread abhorrence within the community at large of homosexual acts, much more widespread than, perhaps, some polls indicate. I do not want to be drawn into discussing why some polls reflect one way or another.

Mr GUNN: Your church is very much involved with the youth movement. I am very grateful for that, as I am for any church that is involved with the youth movement. AIDS is a massive problem. I do not think we can overstate that. Your evidence is not much different from the evidence given by Mr Lewis. I would like to make it known that, as legislators, we could never guarantee that any of our laws would not be broken at some time or another. I do not think that there was ever a law on the statutes of any State in Australia that has not been broken. But that is no reason to throw the law out. That is the point I make. The main hope is to minimise the problem. In the case of AIDS, we must set out to minimise it. It is on the move now and there is no doubt that a lot of people would not realise just how far it has gone. It has reached a dangerous stage now. Would you concede that?

Rev. Solomon: Yes. I do not think that changing the law in any way will minimise it. I think that holding the law there will keep before the public the fact that we believe, as a society, that this is not the best form of behaviour for the people of our community. We can modify the punishments, as you will see in my submission. But I do not believe that we should take the law out. We should hold the ideal before the society. Recognising how difficult it is to enforce the law, and not necessarily going all out to enforce it,

we should hold the ideal there whilst we modify the effect of the law in order to contain it.

The CHAIRMAN: Thank you very much for your time.

Rev. Solomon: Thank you.

The CHAIRMAN: I now ask the representatives from the Catholic social welfare organisations to come forward. Could you state your names and addresses, please?

Bishop Gerry: I am Bishop John Gerry. I am from the Catholic Centre, and the Vicar for Social Welfare.

Mr Kennedy: My name is Brian Kennedy. I am a Catholic Social Welfare Coordinator and I reside at the Catholic Centre.

Bishop Gerry: We began our submission with an effort to identify some of the causes. There is a great complexity there. We hope that the committee would pursue systematic research into relevant aspects of the condition of being homosexual. I notice that a couple of times, Mr Harper raised a question of whether there was some genetic cause. In our submission, we report that few people identify this as a cause. Most of you would recognise socio-psychological causes, and there could be value in pursuing that. It would be tragic if the considerable effort and publicity that has gone into reforming the laws was to distract attention from the other aspects of the problem, the human realities of which are very complex.

We spent a fair bit of our time on the submission looking at the role of the law. It is important that the educative value of law be pursued. Do we leave the law as it is, or do we change it in some way, decriminalising or reducing penalties or whatever, without realistic, concrete evidence of positive consequences of any change in the law? There would be no real basis then for a radical change. But we have not done that research.

Our submission basically consists of values that we would like to see preserved in any reflection on the reform of laws. Not only church groups and leading Christians but also many members of the public would accept the immorality of homosexual activity and differ on the role of the law in that regard. We have set out a number of our reasons for values that we underline. We have outlined eight values that we would like to see borne in mind as you pursue your efforts to make recommendations. We identify there the fundamental Christian values and our social mores and jurisprudence.

All life has a moral basis, and our law, whatever way it is framed, does reflect moral values. The essential place of marriage and family in society is the protection of minors, particularly in relation to education. In relation to the protection of homosexual persons from discrimination and harassment, we insist on the rights of homosexuals. Public decency is an issue, and public health issues have also been raised. It is important that our parliamentarians seek to assess the maturity of society, both on the side of the public insofar as it understands the decriminalisation of homosexuality and also what effect that might have on a small, but radical and vocal, group of homosexual people who are themselves trying to change values in society. There is also an inconsistency in penalties in present law that may need to be looked at. That is the basic outline.

Mr Kennedy: I will not add too much more to that except to say that we tried to put our arguments and the proposals into the submission, and I think that that stands on its own feet.

The CHAIRMAN: You say, Bishop Gerry, in the submission, "The intent of the whole preamble of the Western Australian legislation should be retained in any Queensland legislation."

Bishop Gerry: In your report, there is reference there that it is ambiguous in that one part refers to the law and the other refers to moral values. That is why we tried to stick to the value aspect to see if you could struggle with some way of retaining the intent of that law, of that preamble. We hope that, if there is any decriminalisation, it would not be read as a condoning of homosexuality in practice, and that preamble from Western Australia does seek to at least eliminate that understanding of the law. It is struggling with that comment in your report that we say we would like to see the intent of that preamble retained.

The CHAIRMAN: In your seventh submission, you state, "Any proposed legislation should provide for a limited defence for a homosexual person honestly and reasonably mistaking the partner's age or capacity for responsibility." Does that mean something similar to the Victorian model that was mentioned before?

Bishop Gerry: Once again, I do not want to get into the legal aspect of things so much as saying we saw it as a question of right in the sense that it was not deliberate—if there was a legal age and a person was reasonably and honestly mistaken, that there is some right, that they might be protected.

The CHAIRMAN: I have a general question about AIDS. As you have probably heard during the time that you have been here, it is a matter of some consideration to us. I stress that we are not seeking to attribute blame to the homosexual community any more or less than to the heterosexual community. I make that clear when we raise the issue of AIDS. However, what advice would you give the Government in terms of trying to educate people to curtail the spread of AIDS?

Bishop Gerry: Be truthful in your publicity. I think that is one of the problems I have with some of the recent campaigns, that they are not true: the proposed safe sex in ways that many people would deny are really safe. My main concern with regard to this particular issue is that you do not make it easier by a decriminalising process and the public are to believe that there is no problem with regard to homosexuality. I am not an expert on educational programs with regard to AIDS, but our own education people have made some very detailed efforts in that regard. I am not completely au fait with it, I must confess.

The CHAIRMAN: Before I ask other members if they have questions, I thank you for a very succinct submission. In reading the submissions, I found yours one of the most useful in terms of getting to the issues very quickly.

Mr GUNN: You are saying that one of the main dangers in decriminalisation is to make the public feel that it is an acceptable practice?

Bishop Gerry: I fear that that might be one of the results. A number of these things are rather expressed in the way of caution. When I referred to the AIDS issue, I raised it as a caution that you obviously have before you in a real way. I do not know whether decriminalising or reducing penalties or

taking penalties off but retaining in some form on the statute books some references to homosexual activity will increase the acceptability of homosexuality. I suspect that it would. But I was wondering if you were undertaking some research in countries where—for example, in England—there has been decriminalisation since 1967, and what the social consequences there are. I have not been able to pursue that.

Mr GUNN: Of course, the AIDS question has made it more important.

Mrs WOODGATE: I thank you for a very well-written submission. I do not have any questions. I reiterate what you said in your fifth submission, that you are quite happy with the preamble of the Western Australian legislation.

Bishop Gerry: Yes.

Mr SANTORO: I also add similar comments to those made by previous speakers in relation to the quality of the submission. I would like to put a hypothetical question to you. I have heard your views on this topic, but I am still trying to come to grips with the point. If it could be conclusively proven that somebody who is, and professes to be, a homosexual was born as that—in other words, if you are a Christian and you believe that people are made by God, their character, their sexuality, their total being—what would the church's theological position be in that case?

Bishop Gerry: I am surprised, Mr Santoro, that you give me a hypothetical question. The church is very clear on two issues in this regard. One is that homosexual activity of itself is objectively immoral. The other is that we must have great compassion for the person and seek to help that person come to a fullest possible human life. How you put those two together allows a whole range of pastoral and legislative possibilities. My understanding is that there is no genetic basis for homosexuality. That is my understanding.

Mr SANTORO: It is an area of great confusion. I am finding that the more I delve into it, the more conflicting I find the opinions are.

Mr HARPER: I agree that the submission is excellent and summarises the position very well. In relation to your answer to Mr Santoro and the comments that you made, on the one hand you believe "On the question of privacy, our society now seems to accept that law need not concern itself with behaviour in private that does not conflict with human rights." You go on to say, "The Church would never approve of legislation that would authorise the unjust violation of privacy." On the other hand, you make a point that you do not believe that homosexuality should be removed from the Criminal Code.

Bishop Gerry: Not entirely.

Mr HARPER: It seems to me that you are suggesting, perhaps not unreasonably, that there should be some adjustment or some amnesty, because we are all concerned. I said previously that the community generally seems to be most concerned about ensuring as tight a control as possible on the spread of AIDS, which is one of the concerns that has been raised. Am I correct in assuming that the church—you just said to Mr Santoro that the church regards it as immoral—is suggesting that constraints in the Criminal

Code should not be maintained, that there should be a mechanism to provide amnesty to those people who are prepared to take action to overcome any AIDS problem?

Bishop Gerry: I am not conscious of that being a necessity. I notice in the list of speakers tomorrow that the Director of Public Prosecutions will be appearing here. We have there a legislative machinery that could supervise some form of discretion. I was wondering whether if there was a question of homosexual activity or even prosecution and the law were to remain as it is, that some objective person like the Director of Public Prosecutions would be able to discharge a discretionary function, and whether this committee would look at the authority and the function of the Director of Public Prosecutions to make sure that he or she has the freedom to exercise that discretionary role, if there is an issue. In the document, we do not come down formally on any legal decision because while the church has a very clear teaching with regard to the morality of homosexual activity. There is no one Catholic opinion about the way that might be written into the legislation. So we are not trying to propose any strict legal recommendation but simply to propose the values. Even if there were no change and some of the issues of criminality were to remain, the Director of Public Prosecutions could be given a discretionary role. That is the only thing I would like to add to this particular paper.

Mr HARPER: Of course, that places the Director of Prosecutions in what Mr Fitzgerald might call a difficult position; not that he is unused to being placed in difficult positions. One of the reasons that we asked the Director of Prosecutions to attend the committee meeting is to canvass some of those options. I think that probably in fact, certainly in recent times, there have been no prosecutions relating to homosexuality certainly in private. That is obviously a most difficult prosecution for which to gain evidence. But even in a public place, again because of the great difficulties involved, the law as it stands for acts between consenting adults in private is virtually achieving what you are suggesting.

Bishop Gerry: Given our understanding of the social acceptance of people being free in private as long as there is no violation of anyone's right, the law would not want to pursue that. We would understand if you then chose to recommend that those private acts by consenting adults would be removed. But there could be other matters of public decency and so on that could be retained on the statute books.

The CHAIRMAN: In other words, anything relating to public places would remain as is in the law, and the laws in relation to minors would remain as they are, but consenting acts between males in private would be in a different situation?

Bishop Gerry: Or females. It does not make any difference. We would understand if you went that way.

The CHAIRMAN: I understand. I notice that in your sixth submission you stated that any proposed legislation should place males and females on an equal footing.

Mrs EDMOND: It has been made fairly clear to me on reading these submissions that people advocating reform feel that building up of the gay

community's self-esteem will have a lot to do with eliminating those practices that other people actually find objectionable, that is, the public toilets and areas like that. However, to me, building up their self-esteem would be countered by any move to keep in the Western Australian preamble, which is more or less saying, "We think you are a bunch of disgusting faggots but we won't send you to gaol." Is that putting too strong a position on it?

Bishop Gerry: I am not yet convinced that a change in law will have very much effect on the public perception in this regard immediately. If you were to reduce the law, there could be some raising of self-esteem but there could be a much wider concern on the public level of those who are willing to accept law as the only moral code. The public issue is much wider than that. There is an argument relating to people's rights and their duty and so on, which is distinct from their legal rights. I mention there that often church people can be as guilty or more guilty of discrimination than others. There is a big responsibility, I think, to educate people to have a respect for people as they are.

Mrs EDMOND: I can see a difficulty in bringing in life-style changes that we are trying to do for safe sex because I agree with you that we shouldn't just rely on one form, we should rely on a whole modification of behaviour. It is very hard to do that while at the same time telling people that their activities are not respected.

Bishop Gerry: Our fear would be to make it so much easier that the public health issues could become worse.

Mrs EDMOND: Accepting that in Australia today the Catholic church is one of the larger ones, there is a whole range of churches and a whole range of beliefs, and that any religion you would care to think about is active in Australia today and a lot of people don't hold to any of those beliefs. What role should the law play in compelling society to behave in the constraints of religious and moral beliefs?

Bishop Gerry: We could have quite a long debate, I suppose, about the role of the law in this regard. I would say that we start from where we are, and the law does have general social mores and social values that are basically Christian. I think we start with that and don't throw them overboard without some very good evidence that society doesn't want them. I am not convinced that society wants a change in basic Christian values by way of legislation.

Mr SCHWARTEN: In point 4 where you talk about education, it confuses me somewhat. Just what are you hinting at? Does the church believe that the education system has any role in identifying homosexuality as occurring in the society?

Bishop Gerry: If you notice on the top of page 7——

Mr SCHWARTEN: Yes, I read that as well.

Bishop Gerry: In our Catholic schools there is a presentation of——

Mr SCHWARTEN: I am not unfamiliar with it.

Bishop Gerry: Right through the whole school system from primary grades there is a presentation of development of life issues. There would be

a place for some well-balanced morally sober discussion of homosexuality and attendant issues within that broad framework, within a values framework.

Mr SCHWARTEN: Having said that, do you believe that it is the role of this committee to make a statement regarding that or do you think that should be left up to the relevant education authorities?

Bishop Gerry: All the comments that I have read—and I think they are included also in your own report—are that the respect for minors is an important matter that must be considered.

Mr SCHWARTEN: That is right. So you would believe it is appropriate for this committee to make recommendations on that basis?

Bishop Gerry: Yes.

Mr SCHWARTEN: On to what should be the education issue.

Bishop Gerry: Yes.

Mr SCHWARTEN: Going on from there, you may have heard me ask a question this morning which was followed up later by the chairman. I draw your attention to page 7 where you say that it must be still stated clearly that homosexuality remains a deviation from both natural and moral forms and that the argument that homosexual acts are not more abnormal than heterosexual ones is spurious and contrary to known scientific facts. Are we talking about the acts or the people who do them, or the mix of people who do them?

Bishop Gerry: Yes, the acts. "Scientific" might not be the best word there. I was thinking there of the purpose for which people enter into those activities. One of the primary functions of sexual activity is procreation of children—not the only, but one of the primary functions. That is without any purpose.

Mr SCHWARTEN: So in fact the church is equal in its condemnation of heterosexual activities that occur in the same manner as homosexual activities?

Bishop Gerry: Yes. "Thou shalt not commit adultery" is——

Mr SCHWARTEN: I am not thinking of adultery, I am thinking of some of the acts that are carried out between homosexuals. Unless I am pushed, I do not want to start to get into specifics on it. Some of the acts that are practised between heterosexual couples are exactly the same as those between homosexual couples.

Bishop Gerry: That's right.

Mr SCHWARTEN: Which led me to ask: was it the people concerned or the acts?

Bishop Gerry: The acts.

Mr SCHWARTEN: If we take this matter along to its logical conclusion, we should be prescribing legislation that takes into account those issues as well to bind heterosexuals?

Bishop Gerry: No. If we accept that people have a right to their privacy where they are not offending the rights of anybody else, we see no need to pursue them in either one case or the other.

Mr SCHWARTEN: It is just interesting that we would write a preamble that says these things are repugnant to this society, to this Parliament or whatever and mention homosexual acts, and yet heterosexual acts are equally repugnant in your eyes—certain of them.

Bishop Gerry: Because we are dealing with legislation with regard to homosexuality.

Mr SCHWARTEN: We are also dealing with changes to the law as it pertains to certain sexual behaviour.

Bishop Gerry: And we want to preserve public standards that are traditional in our midst.

Mr SCHWARTEN: I am not disagreeing with that.

The CHAIRMAN: Bishop Gerry, thank you. Do you want to make any concluding remarks?

Bishop Gerry: No. Thank you very much. Having been part of a committee looking at public submissions on other occasions I have great sympathy for what you are doing.

The CHAIRMAN: Thank you, Bishop Gerry. Thank you, Mr Kennedy. We appreciate it. We will adjourn until 2.30 and we will resume here at that time.

The committee adjourned at 1.22 p.m.

The committee resumed at 2.30 p.m.

The CHAIRMAN: I now call this public hearing to order. I invite representatives from the Australian Family Association to come forward. For the record, could you please state your name, address and organisation?

Mrs Smith: My name is Patti Smith. I am the Queensland Vice President of the Australian Family Association.

The CHAIRMAN: At the outset, could you give us some idea of the strength of the organisation and its general activities, just in quick summary.

Mrs Smith: Yes. We are a national organisation. We were set up in 1980 to promote anything that is good for the family and to discuss anything that impacts on the family and that is of course why we are interested in these hearings today. I couldn't tell you the membership Australiawide, but I suppose we have about 2 000 members in Queensland.

The CHAIRMAN: We all have your submission. It is a detailed one. If you could perhaps make some short introductory remarks and then we would like an opportunity to question you on your submission.

Mrs Smith: Thank you. I would like first of all to thank the committee for allowing and inviting the Australian Family Association to speak to its submission. I know there have been many and not everybody has been invited.

Of course, I do not propose to go through the submission point by point. Rather, I would like to flesh out some of the issues which are causing, I believe, confusion of the debate in the community with the general public.

I would like to preface my remarks by saying—I think this is important to have said—that we have taken a great care in our submission to avoid exaggerated and emotive terminology. Unfortunately, the same cannot be said for some of the terms used in the information paper published by the Criminal Justice Commission in May of this year. I refer the committee to pages 9 and 10 under the heading "Arguments against Decriminalisation", and I will quote one of the more extreme arguments put forward by the opposition on page 9 and again on page 10 in a rather histrionic argument. The words "extreme" and "histrionic" serve no useful purpose except to devalue and ridicule an opposing opinion on this issue. However, in reporting on arguments for decriminalisation, there is no such derision. Rather, the opposite pertains.

Existing laws are described as neither humane nor compassionate. Implicit in this type of language, I believe, is that anyone against liberalising existing laws is both inhumane and non-compassionate. I mention this mainly because I believe this information paper contains a certain bias in favour of amending the existing laws. Lest my opinion and my views are relegated to the ratbag Right, I will refer to what Dennis Altman—a well-known homosexual writer—said in his work "AIDS and the New Puritanism". He said that in most countries the gay movement is more clearly aligned with the Left as though it is somehow a compliment to those espousing left of centre politics. This issue transcends political alliances. It is not a matter of left and right. It is a matter of framing laws in the public interest.

I think it is important to gain a proper understanding of the Queensland legislative position to note that the provisions of the Queensland Criminal Code proscribe specific acts and conduct. The Queensland law does not deal with dispositions of life-styles. In other words, it is not true to refer to homosexuality as being illegal in Queensland. The Criminal Code deals with three particular matters known to the law as sodomy, buggery and gross indecency. It is important that the public and, particularly, this committee are fully aware of the nature of these acts in order to understand the role that the law has set for itself.

Both sodomy and buggery require the penetration of the anus by the penis to be legally complete. By reason of this requirement, sodomy may only be committed by a male. It may be committed upon a male or a female who, if he or she permits its commission, may be guilty of buggery. It is a mistake to consider section 208 to be an anti-homosexual law. Rather, it is a prohibition on anal intercourse, whether committed by two men or by a man and a woman, and whether the participants are or are not homosexual in inclination. The fact that the practice of anal intercourse is now common practice within the homosexual community and the heterosexual community—in other words, because more people are doing it—that in itself is no reason for an alteration of the law.

Let me answer some of the more commonly held misconceptions in this debate and try to dispel some of the distortions of truth which, I am sorry to say, the commission's information paper does little to clarify. It has been argued that private practices should not be subject to law, but the law prohibits many acts that are committed in private, not just homosexual acts. We cannot take drugs in private, nor can we commit incest with a consenting son, daughter, brother or sister in private. If the law can intrude into the privacy of the home in these areas, why not in the area of homosexual behaviour? We must not forget that private actions have public consequences.

Some say the law should be abolished because it is not enforced. The law does not exist solely to punish offenders. It is merely one function of the law. The law is also educative. In an age of moral uncertainty the law offers a bottom line—and perhaps I should not use that word—to those who may recognise no other moral standards. It establishes a minimum standard of acceptable social behaviour. Others argue that the law should not condemn those who cannot help being homosexual. Claims that homosexuals cannot help themselves are cruelly dehumanising. It is an insult to homosexuals to say that they, unlike others in the community, cannot exercise control of their sexuality. Many have argued that Christians have no right to force their moral view on others. Christians are not the only ones who believe that homosexual behaviour should not be legalised. Many Islamic and Marxist countries condemn it and place it under criminal sanction. Anyway, Christians have as much right as any other group in society to express their views. It is a curious logic that says that homosexuals have a right which they deny to Christians. I believe that, this morning, we heard that homosexuals are being forced to travel interstate to have tests for AIDS.

Homosexuals know very well that the law has not been and is not going to be enforced in the situation of private actions by homosexuals in their homes. Those homosexuals who frequent toilet blocks and other haunts are the ones who are concerned about legal consequences. Any changes to the present law will not accommodate this behaviour, unless the homosexual lobby is arguing that sex in public places between consenting adults should also be legalised.

I would like now to address the issue of public opinion as an indicator for the need to change the law. To prepare our submission, many hours of research were necessary; so to use an opinion poll to gauge attitude to the existing law about which the majority of those polled would know little would be to set a dangerous precedent. I would especially draw attention to the use of the term "decriminalise" instead of "legalise". To the wider community, decriminalising implies that it does not go as far as legalising. This is a completely ignorant belief.

The Australian Legal Dictionary says that, to legalise something is to make legal behaviour which was previously illegal—to decriminalise. To decriminalise means simply to remove from the Criminal Code and thereby making the illegal behaviour legal.

Page 23 of the information paper states—

"There is a strong case for a properly designed survey conducted in Queensland to gauge people's opinions and attitudes."

I would argue that more than a properly designed survey is needed. First of all, a comprehensive and very, very costly education campaign would need to be mounted to inform the public on the real issues, that is, what the existing law says and the social, moral, economic and public health consequences of liberalising the laws pertaining to sexual behaviour, both homosexual and heterosexual, at a time in history when promiscuous sexual behaviour has resulted in a disease for which there is no cure.

We have established the link between AIDS and homosexuality in our submission. So, too, has the information paper. On page 4 in Figure 1 it shows that over 90 per cent of all AIDS cases in Australia are from the homosexual/bisexual male category.

For a Government to act on a survey without first advocating for an informed response is negligent especially if that uninformed public opinion results in a change in law which, somewhere down the track, leads to public consequences which could leave our legislators vulnerable to an increasing litigious community.

I ask you ladies and gentlemen of the committee: is it any less negligent for the Premier of this State, if he decides to decriminalise homosexuality, to tell the people that by changing the law they have nothing to worry about than it is for the Premier of another State to tell the public that their money is safe when he has no way of guaranteeing the legitimacy of his assurances?

I would like now to address the Western Australian legislation. I refer you to page 40 of the information paper where the legislators in Western

Australia have enacted a legal farce. They have tried to have a dollar each way. I quote from the preamble to the legislation—

"... the Parliament disapproves of sexual relations between persons of the same sex ... the Parliament does not by its action, in removing any criminal penalty for sexual acts in private between persons of the same sex, wish to create a change of community attitude to homosexual behaviour."

This legislation, and particularly the preamble thereto, has been criticised by the Queensland Gay Law Reform Association which said that this model of law reform is entirely unacceptable for Queensland. It is unacceptable to the homosexual community because, contrary to public protestations that all they want is to decriminalise the acts in private between consenting adults, they are demanding that the community accept homosexual acts as legitimate sexual activity. They see a change in the law as the first step towards attitudinal change which is necessary for further demands for homosexual education in schools and parity between homosexual and heterosexual couples for the purpose of welfare and taxation benefits. If you believe that that statement is histrionic and extreme, it is not mine. It was made in a Gay Law Reform newsletter of 16 October 1989.

Some of the mainline churches seem to have adopted this soft-option approach to the issue. The Catholic Social Welfare Commission has condemned the behaviour but has recommended the liberalising of the law. To date, the homosexual lobby has not responded negatively to that statement, because they see it as strengthening their campaign. However, when it is entrenched in legislation they say it is totally unacceptable. Just as it is totally unacceptable to the homosexual lobby, it is also unacceptable to the Australia Family Association that a preamble to legislation should contradict the thrust of the legislation. I want to make this point very strongly. If the laws are liberalised in Queensland, there will be banner headlines in the *Courier-Mail* reporting just that—homosexuality between consenting adults in private decriminalised. That will be the full extent of public awareness on the matter because the vast majority of the community will not read the legislation. I am willing to bet that every one of you sitting on this panel here today—unless many of you were lawyers before you entered Parliament—had not read parliamentary legislation and, if you had, you have forgotten what the preambles were. It is well to note here that it is the militant homosexuals who are calling for law reform. It is the militant homosexuals who promote gay mardi gras and shock tactics to raise the consciousness of the wider community to their cause. It is not the consenting adults who pursue their sexual lives in private—the people who militant homosexuals purport to represent—who are pushing for changes to legislation through public displays. All of us here today know that many homosexuals live their lives without discussing intimate details of their sex lives and that they abhor public displays which they believe trivialise this issue.

The militant homosexuals in the United States have embarked upon a campaign to force high-profile public figures to publicly acknowledge their homosexuality. They feel it is their responsibility—not their right—to show

solidarity with the militant homosexual lobby. If they refuse, they are threatened with public exposure by the militants.

I will tell you how homosexual action groups are raising consciousness and have an exercise to do that here in Queensland. Earlier this year, homosexual action groups were invited to meet in order to plan a strategy to legalise homosexuality. On the day following, there was a small article in the *Courier-Mail* to this effect: I was driving down Waterworks Road and had stopped at the lights at Ashgrove Avenue. Walking towards me were two people who were very, very flamboyantly dressed. I remember thinking to myself, "Oh, there must have been a fancy-dress concert going on at the local church or somewhere." As they drew nearer to me, I realised that they were two fellows dressed in drag. One wore a strapless, long-line bra which he teamed with tight ski pants, high heels, full make-up and a bouffant hair-style. The other one was similarly dressed, but I was far too fascinated with the long-line job to recall the wardrobe. It occurred to me that perhaps they had been to see my local member of Parliament, because I remembered from the news item that they were going to lobby Labor politicians. I phoned my member's office, Mr Jim Fouras, the Speaker of the Parliament, and was informed that, yes, they had paid him a visit, but he had been absent from his office. Subsequently, I met Jim Fouras and he then advised me that they had returned. You would have to ask Mr Fouras whether they succeeded in raising his consciousness or merely his ire.

I ask this committee: how many consenting adult homosexuals who are having a relationship in private would reduce their cause to one of ridicule? I believe that these two gentlemen were neither transvestites nor what they call alternate dressers, but were on the campaign trail.

Time does not permit me to address the psycho-sexual aspects of this issue, but I leave with you two very valuable resources. I know that you would probably have read them in order to be qualified to sit on this committee. But if you have not, I would like to leave them so that you can peruse them before you report to Parliament.

The CHAIRMAN: Thank you.

Ms Smith: We have devoted much of our submission to the establishment of a link between homosexuality and AIDS. However, time does not permit me to talk at length about that.

Your own information paper also establishes this undeniable link, as mentioned before. It is important, however, to alert the public to the fact that the militant homosexual lobby has tried to break the nexus between homosexuality and AIDS and has had an enormous degree of success. You will all have noticed that all federally funded AIDS advertising does not specifically mention homosexuals.

Let me tell you why I believe that this is a deliberate strategy by militants within the homosexual community. I was invited to attend the launch of the AIDS advertising campaign here in Queensland, which was held at the Sheraton Hotel. It was a very gay affair. We were handed information on various ways AIDS could be contracted. I was surprised that no mention was made of anal intercourse as one of the contributing factors. Throughout the

addresses, when speakers acclaimed the suitability of the AIDS advertising campaign, they made no mention of anal intercourse. At question time, I said, "Why? Why have you not mentioned anal intercourse? Are we too coy to mention anal intercourse?" I was informed that no specific sexual activity was singled out because it might cause public opinion against homosexuals, who would be blamed for spreading AIDS. The fact that heterosexuals also indulge in anal intercourse did not seem to be an issue.

After the launch, I was sought out by Mr Bill Rutkin of the Queensland AIDS Council who tried to convince me that a green monkey had bitten a man and that was how AIDS had been introduced into the community. That myth has been around for a long time in a lot of literature—about 18 months. It has thankfully been dispelled now. All I can say is that if he was trying to do to me what he might have been trying to do to the green monkey, I would have bitten him, too.

I mention this only because there must be no distortion of the truth during these hearings. The public has a right to hear accurate information. The Parliament, through this committee, has the responsibility to ensure that accurate information is given to the public. Perhaps a good starting point would be to tell the public that to decriminalise is to legalise and that to legalise is to give legitimacy to actions which are not in the public interest.

The CHAIRMAN: Can I just say before we get to questions that as far as this committee is concerned, we are not interested in the arguments of the left or the right, but we are interested in making recommendations of policy which we think is in the interests of the people of this State. The report of the Criminal Justice Commission was released publicly on 1 June so that people would have an opportunity to read it. It was, in fact, an information paper so that people could make submissions, as you have done here today.

I noticed in the national HIV/AIDS strategy, of which you would no doubt be aware, that clear reference was made to the fact that AIDS is transmitted through sexual intercourse, most particularly anal and vaginal intercourse, with an infected person. An objective assessment of the statistics suggests that outside Australia, it is as much a disease spread in the heterosexual community as it is in the homosexual community, particularly in Africa. If you accept that that is the case—I am speaking hypothetically—would your views be any different?

Ms Smith: Of course, I do not accept that that is the case, except perhaps in Africa where anal sex has been a way of containing population. That is the reason, perhaps, why it is spreading into the heterosexual community. More male homosexuals indulge in anal intercourse than do heterosexuals.

The CHAIRMAN: You also say on page 6 of your submission—and you also referred to it in your oral submission—that in essence, homosexuals are well aware that the law is not being and will not be enforced. You were here this morning and evidence was given that there have been seven charges over the past five years. Given the fact that the opportunity to bring cases against people in the privacy of their bedroom is difficult, do your views change in light of that? I am a lawyer, to answer your question from before.

Ms Smith: That there have not been prosecutions, are you talking about?

The CHAIRMAN: You saying in written submissions, referring to the homosexual community, that they are well aware that the law is not being, and will not be, enforced. What I am saying is that there was evidence given this morning which we have to consider that there were seven cases over the last five years. Does that evidence change your view that you have put in your written submission?

Ms Smith: I would have to know what those cases entail. Sometimes, the people involved in the privacy of their own home are also involved in the public arena.

The CHAIRMAN: The ones that were referred to were not. There were two on the Gold Coast, two in Roma that were referred to in particular——

Ms Smith: In one of the cases, I know that one of the people involved had had a fairly public profile as a homosexual and had, I think, been involved with child molestation.

The CHAIRMAN: That is not my understanding of them, but we will obviously have a look at that.

I will move to another issue. You talk about the effect of the legalisation of homosexuality. Has your association had a look at what happened in South Australia after the law was decriminalised?

Ms Smith: I have read that AIDS certainly has not become any worse, but it does not change attitudes. I think that there have been murders in South Australia since the legislation.

The CHAIRMAN: Murder was one of the reasons for the legislation.

Ms Smith: Yes, but there is also an ongoing investigation into what they call the "Family", an investigation into homosexuals.

The CHAIRMAN: The question is that you have not done a study on South Australia. Have you done a study on any State? I am not trying to be difficult. I am just trying to get evidence for the committee. Has your association done any study of the impact it has had in New South Wales, Victoria, South Australia or Western Australia? I know that Western Australia is too soon, perhaps, but what about the other States?

Ms Smith: What sort of impact are you talking about? Do you mean more people are becoming homosexual? What do you mean? Are people not harassing them? I don't know. Is there any well-documented research on the issues? I am sorry, I don't know.

The CHAIRMAN: I was asking whether your association had done any studies.

Ms Smith: We have done quite a comprehensive study on homosexuality over the past 10 years.

The CHAIRMAN: But not particularly since there were changes in other States.

Ms Smith: Not looking at the areas where the law may have influenced either people to become more likely to indulge in homosexual behaviour or less likely to involve themselves in that area. I do not quite understand what you mean.

The CHAIRMAN: In very simple terms, the argument that was put against changing the law was that there will be an increase in homosexual activity. That is an argument which is presumably supported by yourself, because it is inherent in your submission. Have you done a study in those States where the law has been changed? With all due respect to you and to anyone else who makes a submission here—this is not directed specifically at you—we have to deal with facts; we have to deal with what the reality is. We are not interested in picking on anyone, but at the end of the day we have to come down with a sound recommendation based on reality, not necessarily someone's perception of what reality is, because often that is not the real position. That is why I asked the question.

Ms Smith: I suppose all of you would have that data.

The CHAIRMAN: You are from a national organisation. I thought that you may have the information. You talk about families. A lot of us have families. I have three young children. One of my concerns is to make sure that by the time my children get to their teenage years, the spread of AIDS has been stopped and that they live in a society where they do not need to be fearful of AIDS. It only takes one encounter. What is your advice to a committee like this to stop the spread of AIDS? How do we educate people and deal with that problem?

Ms Smith: An aspect of education that we have not even considered—and which a lot of people ridicule—is that we talk a little bit more about chastity before marriage and fidelity after marriage. Is that being too extreme and histrionic?

The CHAIRMAN: It is not at all. I respect your views, but from the committee's point of view, we have to make recommendations that cover the whole of society, not only those who have a Christian point of view or who have the point of view that you reflect. We have to deal with the real world. That is no slight on anyone when I say that. However, people have been engaged in homosexuality for a long time and will continue to do so, whatever happens with the law.

Ms Smith: That's right.

The CHAIRMAN: I am seeking your views on how we deal with issues such as the spread of AIDS. It may well be that some people would follow your philosophy. However, people clearly have not done that. Therefore, we have to look at that category as well. That is why I am asking what we do with education.

Ms Smith: It is very simple. One can only get AIDS by having sex with someone who had contracted AIDS. You cannot look at it in any other way. It is a fact that you just do not get AIDS—unless you are unlucky enough to get bad blood or you are a drug-user. We have to tell people the facts. We must say it the way it is. You do not tell them they are going to play Russian

roulette with a condom. You are going to have to say, "Listen folks, this is the only way you can get AIDS."

The CHAIRMAN: In other words, because we and the Parliament have a responsibility for public health, as a result of that, you would support a public education campaign directed specifically at the homosexual community?

Ms Smith: We should include them, I should think. I would certainly think so. I wish I had it here, but we had a great big one-page ad stating "Most parents suffer from AIDS". That is misleading, and we had it stopped, thankfully. But there were not too many people who jumped up and down about it. Most parents do not suffer from AIDS at all. It was a great big one-page ad in the local press and all over Australia. It has been stopped now. It was a nonsense. If we can do that, we can tell homosexuals the way it is, too. We have not done it. We have not addressed our advertising to the homosexual community at all—not one ad federally funded, costing us heaps of the taxpayers' money.

The CHAIRMAN: Do you believe the existing law in Queensland which makes, in terms of what you said earlier, certain acts between consenting males illegal is effective?

Ms Smith: How do you mean "effective"?

The CHAIRMAN: Effective in the sense that it prevents that activity?

Ms Smith: I am not saying that it has a preventive element attached to it, but how do we know it does not? How do you know it does not? I do not know it does, but how do you know it does not?

Mr GUNN: By way of observation, I comment that I do not think there is an argument amongst us here today as to the seriousness of the impact of AIDS now and the likely impact in generations to come and the serious effect that it will have on this State and the entire nation. Relying on a cure being found is a very slender reason which we could lean on. We have not found a cure for the common cold yet. However, in most of these submissions I noticed the words "safe sex". Members of my family are in the medical profession. I asked my children about safe sex. They claim it is an absolute misnomer and that no such thing exists. Could you indicate if you consider that AIDS is spreading in this State? If so, if you have done some research, at what rate is it spreading? Have you done any research as to the way that it is spreading in this State?

Ms Smith: You just have to pick up the paper every week and you get the latest statistics. I cannot quote them to you here, but they are increasing. There has been a small drop in the increase over the last six months, but they are certainly increasing everywhere. Why wouldn't they be increasing? People are not taking any notice of the advertising campaigns, and it is costing the taxpayer heaps.

Mr GUNN: I said before that I believe the education program starts at a very early stage with the family unit. Would you concede that this is one area in which possibly a lot of young people are missing out?

Ms Smith: Of course they are missing out. We are not here to discuss the breakdown in the family unit, but that is one of the reasons that we have young kids as young as 12 and 13 on the street. They are prostituting themselves and they are often consenting to acts of homosexuality, not for money but for a roof over their heads at night. How do we define consent? Even if he or she is over 18, they can be consenting just to get a place to sleep.

Mr GUNN: Would it be true to say that there are hundreds of those around Brisbane?

Ms Smith: Did not Mr Burdekin say there were between 50 000 and 70 000 through Australia? There are certainly hundreds around Brisbane. There are probably thousands around Brisbane.

Mrs EDMOND: The Catholic Church submission did differentiate between paedophilia, transvestites and homosexuals. You do not appear to make those distinctions.

Ms Smith: Of course I do. Not all homosexuals are child-molesters. Not all homosexuals are transvestites. Not all homosexuals are prostitutes. But not all homosexuals are pillars of society either. There are thieves, thugs and murderers among them just as there are in the heterosexual community.

Mrs EDMOND: Probably on about the same ratio?

Ms Smith: Yes, I would think so.

Mrs EDMOND: We have also heard from the youth workers that one of the main reasons for the kids being on the streets is, of course, abuse within the family. That is a horrible indictment of families, is it not?

Ms Smith: Yes.

Mrs EDMOND: I have teenage children myself and I know what a concern it must be to many people. I find one of the statements that you have made somewhat surprising. You say that "Claims that homosexuals cannot help themselves are clearly dehumanising. It is an insult to homosexuals to say that they, unlike other human beings, cannot exercise their wills concerning their sexual behaviour." What we are really talking about here is not their sexual behaviour—I mean, I think I can control my sexual behaviour, but I really do not with all due respect think I could control my sexuality.

Ms Smith: Homosexuality is not a crime. There is nothing wrong with it. It is a neutral term. It is the act of homosexuality that is in Queensland at the moment a crime.

Mrs EDMOND: And within heterosexuality?

Ms Smith: Yes. There are a heck a lot of heterosexuals who will not control themselves either.

Mrs EDMOND: I think that I would object to somebody checking up on what I do in my bedroom. Would you?

Ms Smith: How many did you say? Did you say seven in five years, or was it seven in ten years?

Mrs EDMOND: To even have the threat there, I would find objectionable. I would find that very hard to live with.

Ms Smith: But the threat is there in other areas. We can't take drugs in our own home. There is that threat. I cannot go to bed with my son. There is that threat.

Mr SCHWARTEN: I would like to take a point of what you have not said rather than what you have said. You have put all the negative arguments about why we should not entertain any sort of legal reform in that area. Where does that then leave us with the law that currently is unenforceable?

Ms Smith: Have a look at that (indicating). That is the story——

Mr SCHWARTEN: Let me finish, please.

Ms Smith: He's yelling at me.

Mr SCHWARTEN: I have not started yet.

Ms Smith: You'd better not, baby, I'm telling you.

Mr SCHWARTEN: The law is currently unenforceable; is that not true?

Ms Smith: Yes. I think I addressed that issue. Were you not listening? Just because it is unenforceable does not mean to say that we should change it.

Mr SCHWARTEN: The law is unenforceable. The law has led to the breaking of other laws such as bribery and extortion of people involved. Does that breakdown worry you?

Ms Smith: Not at all. Were you not listening when I said that in the States at the moment the militants are threatening and demanding that people in public life—I do not know how many homosexuals there might be in the Queensland Parliament—but they are demanding——

The CHAIRMAN: As many as in the rest of the community.

Ms Smith: They are demanding that they come out and acknowledge publicly their homosexuality. If they do not, they are threatened with public exposure. If you are talking civil liberties to me here, fellow, you know.

Mrs EDMOND: Public exposure is only a threat.

Ms Smith: When we were talking about threats before, you told me it was a threat.

Mr SCHWARTEN: Thank you for the compliment of recognising my youthfulness. The point I am trying to make is that there is in fact another set of laws that are broken because we have this set of laws. I personally find that a little bit difficult to live with, yet you do not. I have a couple of other points. Do you believe that if we were to decriminalise homosexuality we would get an increase in the number of people who were in the gay community? In other words, will it increase homosexuality?

Ms Smith: I do not really know, but you do not know that the deterrent has not been there.

Mr SCHWARTEN: I am just asking for your comment.

Ms Smith: I do not know. I really do not know. I think that more people will probably—you know, kids who really do not know whether they are Arthur or Martha around that 16 or 17-year-old mark might think that they are, and they might not be.

Mr SCHWARTEN: Do you think that homosexuals are born or made?

Ms Smith: Well, there is debate both ways. It is a chosen life-style, and I think that Dennis Altman points that out in his writings. It is a chosen life-style. There are people who have tendencies towards homosexuality, but because they are homosexual, they might not be breaking any law. They might be living in a chaste relationship with someone. Who knows?

Mr SCHWARTEN: Who does know? That is the whole point. I am trying to get to the bottom line of what you are saying. We are looking at a criminal activity at the moment. You are saying to leave it as a criminal activity and, on the other hand, you are saying that you recognise that those people are there, that they have chosen a life-style and, provided they keep it under wraps, do not tell anybody and are not found out, it is okay.

Ms Smith: No, I am not saying that it is okay at all.

Mr SCHWARTEN: You are saying to me that homosexuals are therefore criminals and ought to be prosecuted as such?

Ms Smith: I suppose women who allow themselves to be buggered are criminals. Is that not the way it is in the law at the moment? You have read the law, no doubt, and you know that that is the way it is. There is no difference. It is not a homosexual law; it is a sexual law.

Mr SCHWARTEN: That is right. Obviously, you are saying that the law ought to be left the way it is, that it is quite all right?

Ms Smith: I do not think it is quite all right, but I will not go into that. It was seven years ago that Sturgess made the report.

Mr SCHWARTEN: I read the Sturgess report, by the way.

Ms Smith: Good. You would have to, to sit on this committee. You would not be qualified if you had not.

Mr SCHWARTEN: I am glad that you have established yourself also as the person who can extol the virtues of qualifications of the committee as well.

Mr SANTORO: Most of the views that I have been trying to extract have been covered. Why are the AIDS advertisements so biased in favour of the homosexual community?

Ms Smith: Biased in favour because there is absolutely no mention of homosexual activity at all in any of them; not one of them.

Mr SANTORO: I understand that. How do you think that bias is achieved within the advertisement?

Ms Smith: I think that the homosexual lobby has done very well within advertising agencies, and within Federal Government spheres, and I have absolutely no doubt about that.

Mr SANTORO: Would you see that if the homosexual lobby gained a more favoured position under the law here in Queensland that that would be repeated here?

Ms Smith: That we would see no homosexual advertisements?

Mr SANTORO: Yes, that you would see similar bias carried through?

Ms Smith: Of course. This is the first step. Dennis Altman says—they all say it and it is in the submission—that it is a first step. They are not telling us the whole truth. This is what annoys me. It is a distortion of truth, and it is up to you to make sure that the public know the facts.

Mrs WOODGATE: I do not have any questions, but I would like to make a couple of comments. You have stated on a couple of occasions—you just stressed it again—that it is very important that the public be told the truth and get accurate information. I wanted to comment on something at page 2 of your submission when you made reference to a personal friend of mine, Dr Neal Blewett. You said that he is not renowned as one with any particular record of moral or religious viewpoints. I would like to set it on the record, in case it is interpreted incorrectly, that he is a gentleman of moral viewpoint. I would like that on the public record, in case it is misinterpreted. I was not really happy to read that.

Ms Smith: I thought that the operative word there was "renowned".

Mrs WOODGATE: I understand that. I have read it. I am saying that I want it placed on the record that he is a man of moral viewpoints.

I am a newcomer to Parliament, being elected only last December. I was not a lawyer; I was a housewife. I have read Acts and I do not remember any preambles because, as all of us here know, there has not been a preamble to any Act in Parliament so far. I wanted to place on record that I am not really au fait with Acts also.

Mr HARPER: I do not have any questions. I am conversant with the Sturges report. The point that has been brought out is that, in answer to a question, you said that there were homosexuals of both types, some who have biologically or genetically been directed in that direction and some who were that way by choice. I notice that in the written submission your association makes a point, "In so doing, the ALP correctly acknowledges that homosexual behaviour is a chosen behaviour."

Ms Smith: They have in one of their position papers in Western Australia.

Mr HARPER: I guess what you are really saying—and perhaps I should ask you rather than suggest it—is it that you are saying that whilst you concede that some people are, for want of a better term, born that way and some people go that way purely by choice, in each case it is a matter of self-determination?

Ms Smith: Yes, it is a matter of self-determination whether they indulge in homosexual acts.

The CHAIRMAN: Thank you, Mrs Smith. Perhaps you would like to leave those two documents with the research director for the committee?

Ms Smith: Yes.

The CHAIRMAN: We would now like to call Mr Stephen Cox on behalf of the Queensland psychologists. Would you state your full names and addresses for the record, please?

Dr Gallois: I am Cynthia Gallois. I am a senior lecturer in the psychology department at the Queensland University here in Brisbane.

Mr Cox: My name is Stephen Douglas Cox. I am a senior teaching fellow at Griffith University here in Brisbane as well.

The CHAIRMAN: For the record, before we start the substantive material, could you give us some idea of your experience in this particular area?

Dr Gallois: I have been a teacher in human sexuality for about 15 years and I teach the course in the psychology department in that area. In addition, I have been doing research in the area of safe sex and AIDS prevention for the last several years as well.

Mr Cox: My experience is fairly similar, although not as long. It is probably from the mid-1980s that I have been involved in the same activities.

The CHAIRMAN: Bearing in mind that we have your submission, we have been fairly tolerant today and allowed people to speak at great length, which has had a serious impact on our time schedule. Nevertheless, we didn't want to cut anyone short. Could you give us a short summary of the submission or any additional points you want to make, because we would like an opportunity to question?

Mr Cox: I will start off and then I will hand over to Cynthia. The first point that the submission makes is that sexual orientation is not a choice, it is not a preference. That is why we use the term "sexual orientation". Whether we are heterosexual, bisexual or homosexual, the vast majority of people's orientation is determined in early life before any sexual experience.

The second point is that homosexuals, while a minority of the population, are a substantial minority, and they will always remain a minority group, I suppose. The legal status of homosexuals does not affect the number of homosexuals in society, that is, decriminalising the acts will not result in an increase in the number of homosexuals.

Homosexuality is not psychopathological in itself. The evidence suggests that it cannot be "cured"; it cannot be changed—that means by therapy, active will or by legislation. Discrimination against homosexuals, however, does lead to psychological distress and social distress in homosexual people and also their families. That is especially so because the person does not have choice in the matter of their orientation; they cannot change it. This distress seems to be particularly severe in adolescents. So once people become aware of their orientation, the prejudice and discrimination against them seems to have a marked effect there.

The stress takes the form of depression, even attempted suicide, low self-esteem, feelings of isolation from the rest of society, conflict within the family, guilt on the part of parents and, in some cases, it does lead to bitterness against society. At this stage I will turn over to Cynthia.

Dr Gallois: I would just like to expand on a few of the points in the submission and add a little bit of new material. The first point I would like to make is that homosexual orientation, like heterosexual orientation, is not just a matter of genital acts but involves relationships, particularly loving family-type relationships. About half of adult homosexual men and women in every study that I know of are in continuing sexual relationships which are as committed, they say, as those of heterosexuals and many of which last over quite long periods in spite of rather severe social pressure against them.

Secondly, on a different point, quite a lot of people in Kinsey's research—up to nearly half of the male population in the US at the time—had sexual experiences with a person of the same sex at some stage in their life. These people go on to be heterosexuals in the main, which is presumably what they were going to be, anyway, that is, an early experience and one experience does not seem to have a great deal of influence on your sexual orientation.

Both girls and boys experiment in adolescence with sex, as you know, and again every survey that I know of suggests that at every age from under 15 up to 19, boys have more sexual experiences than girls do and are no more emotionally involved in these relationships, in these experiences, perhaps even less so, and no more influenced by them.

The balance of evidence in the AIDS and safe sex area suggests that decriminalisation of homosexual acts would not only not increase the spread of AIDS but would actually help to lower it, to prevent it. There is very strong evidence that homosexuals who are identified with the community and who have a strong sense of self-esteem are more likely to practise safe sex and are more likely to be active in helping to prevent the spread of HIV infection. I refer you there to Adam Carr's submission, which I have read, and to the very good sample coming out of Macquarie University now on men in New South Wales. I think that evidence is quite strong. And not only Australian evidence. It is also replicated in our own research, including a national evaluation of safe sex workshops, which we did. But it is very difficult to build this kind of sense of community and self-esteem in an atmosphere of intolerance and discrimination. As Professor Karmel points out, it is very important that the law doesn't impede what we need to do in the area of AIDS education and safe sex education.

Finally, in the AIDS area again, there is evidence that heterosexuals who are prejudiced against and who stigmatise homosexuals are themselves less likely to believe they should practise safe sex. So I think in the AIDS education area there are strong reasons to encourage heterosexuals not to discriminate, not to be prejudiced for their own good as well as that of the larger society.

I would point out that all the evidence that we bring up in the submission is based on the results of many studies. Each point has been replicated. I think it is important in this area not to rely on just one study. So we are quite confident in concluding that we believe homosexual acts should be decriminalised. We believe that nothing in the law should indicate official disapproval of homosexuals. For example, the preamble like the one in Western Australia we feel would be very undesirable because it would

contribute to the atmosphere of intolerance and discrimination, which is causing a lot of the problem.

Finally, issues like the age of consent should not be different for homosexuals and for heterosexuals.

Mr Cox: I have some more names to go on my submission. I didn't have much time to collect the names for the psychological submission.

The CHAIRMAN: I thought you gave us a list of who's who in the Queensland psychologists as it was. Do you mean there are more?

Mr Cox: I have more. I also have spoken to the Queensland branch of the Australian Psychological Society and got them to go through committees and things that they have. I found out on Friday that they are willing to support decriminalisation of homosexual acts in Queensland. That is the Australian Psychological Society, Queensland branch.

The CHAIRMAN: Will they be writing to us to that effect?

Mr Cox: Yes, they have drafted a letter but it is lost in their processes somewhere. So it will get to you some time, I would hope.

The CHAIRMAN: I think your submission includes the names of a large number of psychologists. I don't think you need to establish your bona fides past that.

Mr Lewis, who is the assistant superintendent of the Assemblies of God, this morning gave evidence before us. One of the matters that he has referred to—we do not have a copy of this yet but he has very kindly agreed to provide it to us—appears on page 3 of his submission. It states—

"The use of a condom may marginally improve the protection against AIDS, but that the facts are the majority of homosexuals do not use them consistently. In March 1987 The Medical Journal of Australia reported (Pg280) the results of a study of 172 homosexual men in Adelaide.

The researchers found that virtually all (97%) of the men approached had heard of 'safer sex' and understood what it involved. However, less than one third (28%) regularly observed 'safer sex' practices. Barely a third (32%) observed them occasionally; and over a third (39%) did not observe them at all."

I just wonder: one, have you read that? Two, how do you respond to that bearing in mind your comment that those people in the homosexual community who had self-esteem or whatever were more likely to practise safe sex?

Dr Gallois: I think in a way that the two points are quite compatible. That research is coming from several years ago at a time, I think, when the homosexual community was still changing its behaviour. We, more recently than that, just at the end of last year, did a study of homosexual men in which we found that only about 10 per cent of them could be said to be practising unsafe sex. The others were consistently practising at least the use of condoms and, in many cases, completely non-penetrative sex. So I think

that there has been quite a dramatic change even between, say, 1984 and 1987, but again between 1987 and the present day.

The CHAIRMAN: So it is rapid change in terms of safe sex in the homosexual community.

Dr Gallois: Yes, a rapid change. I think in the homosexual community today you would find that all those numbers who are practising safe sex consistently would be much higher. In our national survey, I think we found them in the 70 to 80 per cent of people saying they always practised safe sex. Again, we haven't gone out and actually checked them. But the Melbourne perspective study is showing very low rates of conversion to HIV, the Sydney perspective studies as well. I think that is pretty consistent evidence of change.

But the important thing—and I think this is the thing that we really wanted to emphasise—coming out of the work from Macquarie University particularly but other studies as well and work overseas is that there is a difference among different homosexual men, and those men who accept their sexuality, who feel an identification with a gay community or homosexual community of some kind, who feel they can be open about what they are doing, are more likely to practise safe sex, whereas those men who feel they must go underground or who are not able to accept their sexuality are less likely to practise safe sex. I think that is the point that I would want to stress.

The CHAIRMAN: Obviously one of the issues that concerns us is AIDS and the spread of AIDS.

Dr Gallois: Sure.

The CHAIRMAN: I have read the "Causes of homosexuality" section in here in some detail and I will come back to that in a minute. One of the areas that strikes us from information we have received and in the over 1 000 submissions that we have received is that when you are communicating about safe sex and AIDS, you have obviously got the heterosexual community, the homosexual community and then you have got the bisexual community, however you define it, in between. Part of the problem there—and I am interested in your comments on this—is that you do have bisexual men, for want of a better situation, living in a married situation with a woman, and from what we gather, they are more likely to be the people who visit beats or whatever to practise unsafe sex. In other words, they are more likely to be the people who are greatest at risk and also the people more likely to be spreading it into the heterosexual community.

Dr Gallois: They may be, although I think there is very strong evidence that it is going to be the drug-using community that provides a big bridge as well. But, yes, you are right. I think that is why it is important. At least, it is important to me as someone who is working in AIDS education that the more heterosexuals tend to stigmatise and blame homosexuals for the AIDS epidemic and for their own behaviour, the more likely they are to deny that they are at risk and therefore to do anything about their own protection. In fact, there was an interesting paper a couple of years ago by Siegel and Gibson which calls prejudice against homosexuals a positive barrier to safe sex among heterosexuals. I think when you start talking about bisexual

people that that becomes very important, that the attitudes of heterosexuals towards homosexuals turn out to be important for their own behaviour. They are more likely, in an atmosphere where they don't stigmatise heavily, to believe that they should practise safe sex themselves. Obviously, that is an important factor in keeping the epidemic from spreading—a very important factor in keeping the epidemic from spreading among the heterosexual population.

The CHAIRMAN: Can I get a couple of these issues very clearly on the record? In your professional experience, are you saying that in Queensland the existing law causes a climate in which homosexuals are reluctant to be tested for AIDS?

Dr Gallois: I believe that is so. I haven't personally conducted the studies which have involved testing people for HIV or AIDS, but I know of quite a number of studies which have. There are very strong problems about confidentiality, the credibility of the people doing the testing, and so forth. Secondly, people are reluctant to come forward in any way that might admit that they engaged in homosexual behaviour. I am not necessarily talking about homosexuals. I am talking about men who have sex with men ever. Those men—and it might be the bisexuals who you mentioned before—are particularly very reluctant to step forward and identify themselves in any way with a group which is stigmatised to the extent that homosexuals are here.

The CHAIRMAN: Let me ask the corollary of that. What would happen, in your professional view, if the law was changed so that sex between consenting males in private was no longer a criminal offence—in terms of testing?

Dr Gallois: I think a percentage of the population which is at risk would be more ready to come forward for testing. I think, equally importantly, those people would be responsive to messages about safe sex. If someone comes forward and does get a test that is found to be positive, it is important for that person to be very careful not to transmit the virus from then on. It is very important that that person understands what he or she has to do.

The CHAIRMAN: Evidence has been given by some people before us in written and oral form that, because AIDS is, in fact, a "death sentence"—and I am trying to paraphrase this—that people who have the disease, be they heterosexual or homosexual but largely homosexual because that is what we are talking about here—that they are not game to be tested because they simply don't want to find out whether or not they have the virus?

Dr Gallois: I think that is far more likely in a climate where, by having the test, they would be admitting to behaviour which is considered to be criminal. Admitting in a place where homosexual acts are illegal and where other behaviour that might put you at risk of HIV infection is also illegal—by even coming forward for a test and finding out that you might be HIV positive, you might feel that that is tantamount to admitting that you are such a person. I think a lot of people simply don't want to admit that in this climate.

The CHAIRMAN: Do you mean in the climate of the existing law?

Dr Gallois: Yes.

The CHAIRMAN: You say that homosexuality is not a choice; that sexual orientation is determined fairly early. What is the evidence? Do we know how early?

Mr Cox: There is a range of views on this. However, all of them agree that it is well before adolescence, so it is well before people actually engage in——

The CHAIRMAN: It is before puberty?

Mr Cox: Yes, so it is not dependent upon sexual activity. What causes it, no one can say with any certainty at all what it actually is. The most scholarly view at this stage is that it is an interaction between, I suppose, biological causes and social environmental causes, and there is probably some sort of a critical period very early in childhood; but no one can actually identify what the social environmental causes are or what the biological causes specifically are.

The CHAIRMAN: If the sexual orientation is determined early, and if a young person had a sexual experience with someone older, and that was a homosexual experience, would that necessarily change a person whose tendencies were towards heterosexuality?

Mr Cox: Absolutely not. Sexual orientation does not get changed from one or two experiences or even three experiences. The Kinsey data and data from a few other places shows that a lot of adolescents, for instance, have homosexual experiences. Kinsey found that it was 48 per cent, but 48 per cent of the population is not homosexual.

The CHAIRMAN: Let me take you to another piece of evidence that was given to us today. One of the churches indicated to us that they had had successful programs to take homosexual people to a heterosexual life through their own counselling or whatever and that those people had lived a normal heterosexual life. What is your response to that?

Mr Cox: I would be very sceptical about that. I would want to know their methods and how they defined homosexuality; what their follow-up was. It is definitely a unique finding. As Dr Gallois said, replicability of this is required.

Dr Gallois: It should be said that a small number of people genuinely have a bisexual orientation of one kind or another. Those people may, as a matter of fact, at a particular point in their life have more sexual experience with people of their own sex. They may be particularly amenable to therapy or treatment. Every therapist has occasional successes, but people who are genuinely homosexual in orientation just don't—in the main, the studies have found very low success rates. Imagine what it would be like to convert a heterosexual to homosexuality through therapy. It is exactly the same kind of problem.

The CHAIRMAN: Do you have any indication of what percentage of the population would be bisexual as opposed to heterosexual or homosexual?

Dr Gallois: It is very hard to say. I suppose it depends on what you identify as "bisexual". The Kinsey data is still the best, namely, in the

absence of a really good follow-up study in any country after that. Kinsey found that about 4 or 5 per cent of the men and roughly the same percentage of women are exclusively homosexual; that means they never have sex with the other sex. About 50 to 60 per cent of the men and more than that of the women are more or less exclusively heterosexual; that is, they have never had sex with a person of the same sex. The rest fall somewhere in between. Most of those people have had one or two sexual experiences, and all the rest have more. The number of true bisexuals, I'd say, is relatively small.

The CHAIRMAN: We were talking before about sexual orientation taking place at an early age. It is also true that girls mature faster than boys. If we are talking about an age of consent—be it 16, 18 or whatever, but let us deal with 16—what is your professional opinion? Is the age of consent at that stage—both have obviously determined their sexual orientation, based on what you have said. Therefore, you would argue, presumably, that there would be no difference then in terms of the age of consent?

Dr Gallois: I think that is what we would argue, and fairly strongly, particularly between boys and girls mainly because the suggestion that we have heard at any rate is that boys mature more slowly physically, which of course they do through childhood, and they reach puberty a little later. We are talking about age 13 or 14 now. Therefore, they may be emotionally less mature. The evidence coming from the survey data on adolescents—and the vast majority of these people are heterosexual adolescents—is that boys start to have sexual activity earlier in their teenage years and are more sexually active than girls and they are no more emotionally involved in their sexual relationships than girls. They are more likely to have more sexual partners than girls at any given age through the teenage years and so forth. In the light of that, to have a higher age of consent for boys on the grounds that they are less sexually mature does not reflect their behaviour. Their behaviour is that they have more experience than girls.

The CHAIRMAN: I have one more question in relation to your point about suicides. You made a particular reference to self-esteem and the consequential suicides. You say—

"A growing number of studies are beginning to report high attempted suicide rates in homosexual adolescents. Bell and Weinberg (1978) found that 20% of the gay males in their study . . ."

Is the incidence of suicide higher in those areas where homosexuality between consenting males is higher?

Mr Cox: I'm not sure, to be honest.

The CHAIRMAN: Is there any way you can find that out? Are any studies available? Bell and Weinberg was 1978. None of them seem to be all that recent. There was a Martin and Hetrick in 1988. They reported a figure of 21 per cent in their sample.

Mr Cox: They are American and European studies. I know of no study in Australia looking specifically at that; but I see no reason why that data should not be broadly transferable to Australia.

The CHAIRMAN: If you do have any information on that, we would be happy to look at it. I know of Coleman and Remafedi of 1989, but it does not necessarily deal with younger people.

Dr Gallois: It is not an easy question to answer, because one of the things about comparing societies where homosexuality is legal with ones where it isn't, or where acts are legal or illegal, is that that is not the only difference between those societies. Whichever way the evidence goes, you are better off if you can find comparisons within relatively the same social group. For example, we would be best off if we could find a Queensland study which we could compare to a New South Wales study or something like that.

The CHAIRMAN: Are there any in existence that compare, say, South Australia, which was one of the first States, with New South Wales or Queensland?

Dr Gallois: On suicides?

The CHAIRMAN: Yes, suicides, but homosexuality in general.

Mr Cox: There is one. It compared Victoria just before it decriminalised—with South Australia—on a number of indices. It is referenced in our submission. It shows self-esteem in the South Australian homosexual group was higher than it was for Victorian homosexuals, but it did not look at suicide attempts.

The CHAIRMAN: How far can you take that, though, in terms of the incidence of homosexuality? I guess what you are saying is that, if the law were changed, it would not lead to a rapid increase in homosexuality? Is that what you are saying?

Mr Cox: It would not lead to an increase in homosexual activity. An equivalent American study looked at decriminalisation in seven States in America and asked the question about private homosexual acts. It reports that there was no increase in the amount of private homosexual activity as a result of decriminalisation.

The CHAIRMAN: I guess this is a rephrasing of the same question. We have had evidence put to us that says that if we recommend to Parliament that the law be decriminalised, there would be an increase in the incidence of homosexual practices in the community.

Dr Gallois: No, there wouldn't. The number of homosexuals and the amount of homosexuality in the community has been very stable across a number of countries and across changes in the law. Stephen has mentioned the seven States in the US. That did not affect the number of homosexuals. The same thing has happened in Australia. Work by Michael Ross does not show an increase in homosexuality in recent years. The reason is quite obvious. We are talking about a sexual orientation which is determined in early childhood—certainly in childhood—for the vast majority of people. They simply live out their lives in that way. What changes for them is that they do not have to live out their lives as criminals.

The CHAIRMAN: What you are saying is—and this is your professional opinion—firstly, if the law was changed there would not be an

increase in the incidence of homosexuality, because that is determined by factors that are difficult to determine but which are determined at an early age?

Dr Gallois: Yes.

The CHAIRMAN: Secondly, the law as it currently exists causes effects on homosexual self-esteem. Therefore, that has an impact on whether they are prepared to do things like be tested for AIDS and how they respond to those sorts of things. Is that a clear summary of what you are saying?

Dr Gallois: Yes.

Mr SANTORO: What is your opinion of the AIDS advertisements? Do you think that it is good that references to homosexual activity are not included, as clearly the previous witness suggested should be the case? Do you think they are biased perhaps to a homosexual position? If you think that they are, why do you believe that that bias exists within the advertisements?

Dr Gallois: Are you talking about ads in the mass media?

Mr SANTORO: Yes. If I could just fine tune that. There is a lot of criticism within the community about the ads not addressing what is perceived in the community as the major reason for the spread of AIDS; that is, the practices within the homosexual community. Some people are suggesting that the wrong groups in the community are being targeted. Do you agree with those views, and how has that situation come about?

Dr Gallois: The ads in the mass media are appealing to the population as a whole. I think that has been a deliberate effort by both the Commonwealth Health Department and AIDS educators. Most of the population is heterosexual, so the thrust in those ads in the mass media tends to be towards them, because they are most of the people who will see the ads. There is a feeling that that kind of coverage needs to be general and that we should make the entire population aware that there are risks associated with anybody's behaviour. On the other hand, those same people—and I include the Health Department here as well as other AIDS educators—would argue that specific information, advertising and so forth needs to be targeted at different groups, including groups whose behaviour puts them at higher risk and that that literature has to be very specific to those groups. So literature aimed at homosexual men needs to be specific to their practices, that is, what they do in reducing the behaviour which puts them at risk but which may not put heterosexuals at risk. One of the problems in Queensland has been running that second type of material which is targeted specifically at homosexual men. It has not been easy to do that in the climate of the current legislation.

Mr SANTORO: In States where those legal barriers do not exist, what are the proportions of resources that are directed towards the target groups that are most susceptible? Do you have an awareness of whether it is 80 per cent of the expenditure? Perhaps it could be a more subtle form of advertising that is taking place. However, do you have any idea as to how the allocation of resources is worked out?

Dr Gallois: I do not want to give you exact figures, because I do not want to linger on, but the majority of resources that are going through the State AIDS councils are being targeted at groups whose behaviour puts them at high risk, such as homosexual men, and now, increasingly, drug users.

Mr SANTORO: Is that in the mass media or is it more subtle?

Dr Gallois: It mostly tends to be localised—educational workshop campaigns and printed material such as brochures and so forth which are distributed in those communities and which are targeted specifically at those people. There is a feeling—and I share this feeling—that there is no need and no particular advantage in putting out the literature through the community as a whole.

Mr SANTORO: One of the points that we have been hearing today is a suggestion that most heterosexuals have, in their early years, indulged in some form, if only a minor form, of actions of a homosexual nature. How are those figures arrived at? What research basis is there? I do not want to sound funny, but I have checked with as many of my colleagues as I could.

Dr Gallois: I think most people are relying on the Kinsey studies. Most is an overestimate. What Kinsey found was that 48 per cent of the men and about a third of the women had had at least one homosexual experience at some stage in their lives. That might eliminate every single one of you quite easily. So I think most is an exaggeration. There are a lot of people who never have.

Mr SANTORO: There are a lot of people that resent that suggestion.

Dr Gallois: The suggestion that most people have done it—sure, I can understand that.

Mr SANTORO: If one is trying to create an improvement in the climate as far as self-esteem for members of the homosexual community is concerned, that is a detriment. I simply say that as feedback and comment.

Dr Gallois: The thing that is worth pointing out is that those experiences do not make those people homosexuals. It is very important to remember that those people are heterosexuals.

Mr SANTORO: That is understood. If the law in Queensland is changed, as you recommend, and society's attitude towards homosexuals remains the same as it is now, do you believe that the self-esteem of members of the homosexual community would increase and improve as a result of the change in the law? If that is the case, then why? If it is purely made to be legal by decriminalising and society's attitude remains the same—in other words, the majority of the society retains its opinion, in some way or another, whether it is through a preamble in an act of Parliament or through commonly-done surveys—why would self-esteem improve within the homosexual community if in fact society as a whole, despite the change in legal status, still sees it as not being a desirable or moral form of action?

Mr Cox: I would not say that the self-esteem of homosexuals would go up all that much with just a change of law. Laws in law books do not directly affect people. However, the attitudes of those people around them do

affect them and it is really social change of attitudes that is required to increase some self-esteem in the homosexuals.

Dr Gallois: The comparison between South Australia and Victoria when the legislation changed in South Australia will illustrate this. When the law changes, certain things become possible. It is possible for a person to say openly that he or she is a homosexual without fear of legal sanctions. That gives the homosexual community a chance to build its own self-esteem as a group. That may not impinge very much on anybody else, but simply being able to do certain things—I do not mean practice sexual acts—but simply to admit that you are homosexual makes quite a lot of difference in terms of the impact upon the community itself. That is not the whole story.

Mr Cox: Miranda and Storm in their investigations into the processes of achieving a positive homosexual identity showed that being able to express one's homosexuality was a critical step. Being able to say that they were homosexual to other people was a very important and critical step.

Mr SANTORO: You said during your verbal submissions that social and environmental causes, together with biological causes, are responsible for sexual orientation. Am I quoting you correctly?

Mr Cox: That is the most scholarly position at this stage. It is an interaction at a critical period.

Mr SANTORO: So that is the most recent and most acceptable evidence at the moment. If homosexual laws are relaxed in this State and, because of that, there is a more acceptable community attitude towards it—greater publicising, whether it is for educational purposes or for other reasons, and if there is more mention within the media and within the social environment—would presumably this extra exposure to the norm of homosexuality be a greater contributor in that combination of social, environmental and biological causes towards shaping the sexual orientation of more younger people?

Dr Gallois: Probably not. The evidence for that is indirect. There is some research, especially on homosexual women who bring up their children because they have been married, been divorced, and have custody of their children. In many cases, they are also in homosexual relationships while they do that, and the children are aware of that. They are aware of their mother's relationship with another woman. Yet those children grow up to be heterosexuals in the same numbers that children coming from heterosexual families grow up to be heterosexuals. So whatever it is in the social environment that contributes to sexual orientation does not seem to be being exposed to people around you who are homosexuals.

Mr SANTORO: What you are basically doing, without putting words into your mouth, is retreating from the previously stated position. I suggest to you that you cannot have it both ways where you say that homosexuality is caused partly by biological factors and partly by social condition.

Dr Gallois: Sorry, no. That is perhaps a misunderstanding. By saying that it is caused biologically, we are not saying that it is inherited. That is the first thing. There may be prenatal influences that contribute to that.

Mr SANTORO: It is not necessarily inherited. The book that I referred to, *Brain Sex*, talks about all sorts of things happening at conception.

Dr Gallois: That's right, in the pre-natal environment. But it is not a case of inheritance. I am saying that homosexuals do not bring up homosexual children. They bring up children just the same in their sexual orientation as the heterosexuals do. That does not mean that there is a biological factor in homosexuality. That biological factor, whatever it is, would apply to heterosexual women or men who are parents of those children. But it is not an inherited thing. The social and environment stuff—whatever it is—is not being exposed to homosexuals. That is what we say. But that does not mean that there is no socio-environmental cause in childhood. Obviously, there is. However, that cause does not involve being exposed to homosexuals.

Mr SANTORO: From your professional point of view, you would not exclude that exposure to homosexual norms. I do not mean that you need to be subjected to homosexual abuse, behaviour or activity, but purely being aware of homosexual things could shape somebody's sexual orientation. You would not exclude that possibility, without wanting to put words into your mouth?

Dr Gallois: I guess that scientists never say "never" to anything. It is very unlikely that it would, though. I would come as close to excluding that as I would anything else, yes.

Mr SANTORO: What are the main mental and attitudinal problems for which you treat homosexuals?

Mr Cox: The literature coming out from the clinicians seems to suggest that one of the major ones is a self-acceptance of one's homosexuality due to a lack of acceptance by those around them. That then leads to a whole heap of other problems—depression, high anxiety, suicide, generally feeling bad about oneself—the whole kit and caboodle of it.

Mr SANTORO: That is the Queensland scene?

Mr Cox: That is worldwide.

Mr SANTORO: Even in places where homosexual activity has been decriminalised?

Dr Gallois: Less in those places, and particularly in countries with a long history of tolerance like European countries. But you have to remember that there are a lot of differences between countries.

Mr SANTORO: Could you refer the committee to some of those studies and surveys? I would be most interested in looking at those.

Mr Cox: The ones that consider the psychological effects are detailed in the submission. Bell and Weinberg did a fairly classic study in 1978. It has a fairly large sample and is well researched.

The CHAIRMAN: What Mr Santoro is getting at is that you actually have copies of the reports themselves?

Mr Cox: Yes. All of these are readily available.

Dr Gallois: Would you like us to supply them for you?

The CHAIRMAN: The committee will make a decision on that. We may come back to you at the university. You did summarise them, but we might like to read them.

Mr Cox: There are a growing number of publications dealing with psychotherapy with gays and lesbians. They are written by clinicians and detail a lot of that anecdotal evidence and personal experience of clinicians. There seems to be a growing collection in the main library at the University of Queensland. They may be in the State Library, too. But I don't know. They are available, though.

Mr HARPER: There seems to be a great diversity of opinion amongst professionals—perhaps not as widely as amongst economists—but there are those who say that there are biological and genetic factors. This morning, we heard a submission that listed a number of people, including Kinsey and Altman, who said the reverse. I noticed in your submission that you very nearly used the words that you wrote—

"The most scholarly position to take at this stage is that there appears to be an interaction between both biological and social influences in the development of sexual orientation."

I think you are saying there that you accept that there is not one firm, predisposing factor; that social influences will have an effect upon the development; maybe they are in a latent form as a result of biological or genetic influences. I do not like to quote selectively, but I will quote from the submission of the Australian Family Association where they quoted a section from what has become known as the Sturgess report, which was written by Sturgess QC in 1983. The submission stated—

"Whilst it is a myth to say all homosexuals are paedophiles, I believe it to be a fact that male homosexuals are more attracted to youth than heterosexuals and will remain so for much of their lives. Also, I am satisfied children can be made homosexuals as the result of homosexual experience. Consequently, in relation to homosexual acts, there should be a grade of offences and most condign punishment of them who interfere with children."

Would you care to express an opinion as a professional person as to whether you believe that that would be a sound basis on which to consider any amendments to the law relating to homosexuality?

Dr Gallois: I think all of the evidence that I know of suggests quite the opposite. All the evidence that I know of suggests that homosexual men are no more likely than heterosexual men to want sex with children. Certainly, the majority of cases of sexual interference or abuse of children come from heterosexuals. I do not have to tell you that; you know that already. Obviously, condemning sexual interference with children applies to everybody, homosexuals and heterosexuals alike, but certainly the evidence is very strong against those sorts of conclusions.

Mr HARPER: I believe that Sturgess was indicating in his report in this area the difficulty, if not impossibility, of bringing about prosecution when an act of homosexuality is practised in private between consenting adults and recognising that fact. The area on which I would like your opinion is his

suggestion that there should be a grade of offences which takes account of that fact. It was something that I referred to earlier this morning in speaking with another group as to whether perhaps we were looking at a position of an amnesty or a grading of punishments that acknowledged the factor to which he is referring.

Dr Gallois: Which factor? I am not quite sure what you are asking.

Mr HARPER: I am asking your opinion as to whether you believe that an amendment to Queensland legislation along those lines which tacitly recognises, as Sturgess says, that no amount of legislation will ever eliminate homosexuality and that, under those circumstances, it is more appropriate that the legislation deals with a grade of offences for those which offend against community thinking more than others, so that, if you are not going to legislate to decriminalise homosexuality in private circumstances between consenting adults, then if you did legislate for what Sturgess refers to as a grade of offences, would that achieve a desirable result?

Dr Gallois: In other words, make it a lesser offence than it is now; is that what you are saying?

The CHAIRMAN: Having stages of offences, not just legal or illegal.

Dr Gallois: I guess that the thrust of our submission is that making criminals out of homosexuals for behaviour which is largely out of their control has got few benefits and many detrimental effects. Therefore, putting them in a position where they are not criminals for that behaviour would be a step in the right direction. Other issues such as sexual abuse of children and so forth I would see as quite separate and to be handled in quite a separate way.

Mr HARPER: Am I to take it from that response that you believe that homosexual acts, wherever they may be committed, should be decriminalised?

Dr Gallois: I think there are reasons why sexual acts in public, whoever commits them, probably offend against public morality and need to be regulated. I do not think that that applies particularly to homosexuals.

Mr GUNN: We all agree that the AIDS problem is paramount in this argument. There is no doubt about that. But you keep on talking about safe sex. Do you really think there is such a thing as safe sex in terms of AIDS?

Dr Gallois: Yes, I do. I think that there are degrees of safety. Most people in the area of AIDS education would call non-penetrative sex safe sex and they would call wearing condoms safer or less risky.

Mr GUNN: There is no risk if they wear condoms?

Dr Gallois: Yes, there is still a risk. I think that the risk of HIV transmission when sex is non-penetrative is so small as to be negligible. I think it is fair enough to talk about that as being safe sex. Sex with condoms, most people would say, is not perfectly safe, but is a lot safer than sex without them.

Mr GUNN: But not really safe sex as such?

Dr Gallois: Not perfectly safe, but a lot better.

Mr GUNN: When you say "safe sex", there is an expectation that it is perfectly safe provided you use a condom.

Dr Gallois: Yes, and I think that it is important that people are aware that that is not so. In fact, that is one of the messages of AIDS education campaigns, particularly those that are targeted at the more high-risk type of people—people whose behaviour puts them at higher risk.

Mr GUNN: You said that you considered that there are a small number of bisexuals in the community. They laughed at me when I told them that Western Australia told me exactly the same, in spite of the fact that one of the gay movement who was there—there were only two present when we interviewed them—admitted that he was bisexual. I think that that is a guesstimation; there may be a lot more than what you think.

Dr Gallois: Again, I think it depends on what you call a bisexual. There are some real problems in deciding that. If you ask people themselves, you get one type of answer. If you look at people's behaviour, you get a different type of answer. Depending on how you define it, I think that the number can go from very small to relatively larger, but still a minority. There is no question about that.

Mr GUNN: But more than a few?

Dr Gallois: Yes, more than a few. And there are a good number of people who occasionally have sex with a person of the same sex who would call themselves heterosexual; they would not call themselves bisexual at all, but we might. We might say their behaviour is bisexual.

Mr GUNN: My experience as a former Police Minister is that there are certainly a lot more bisexual people in the community than I would have thought. Their wives approached me to say that they never had any idea that their husbands were practising homosexuals.

Dr Gallois: That is why it is very important to remember about being open about homosexuality. I think it is very important for just that group of people.

Mr GUNN: Would you concede that they are one of the grave problems in the community, the bisexuals?

Dr Gallois: Grave problems in what sense?

Mr GUNN: In spreading HIV AIDS?

Dr Gallois: They certainly are, because they tend to practise unsafe sex. It is very important that those people become more accessible and get more access to education programs. I think it is extremely important. That is one of the most important features of the whole issue.

Mr GUNN: Do you think that the education program has been successful?

Dr Gallois: It has been very successful in the gay community. I think those homosexuals who identify with the gay community have turned their behaviour around probably more quickly than in any other health-related area that we know of in modern times—in this century.

Mr GUNN: Would there be a percentage who are hiding their problem and will not come forward?

Dr Gallois: Which problem? Hiding that they had HIV?

Mr GUNN: Yes. It is quite common for people to do that. If they have a major problem, they want to get away from it and do not want to hear about it.

Dr Gallois: Yes, I would say they would be. In a climate where admitting that you might have HIV is admitting that you are a criminal, I think that number is larger.

Mr GUNN: It has been suggested that we have compulsory screening. Could that be successful if we cannot get them out of the woodwork to get them tested?

Dr Gallois: It is very costly and it only lasts for one day. I think you need to keep that in mind, that people who are HIV negative today may not be HIV negative tomorrow.

Mr GUNN: You say that you consider that more homosexuals would come forward if homosexual conduct was decriminalised. If that were not correct, that will not help the situation as far as the AIDS problem is concerned?

Dr Gallois: That is true, except that in a climate where homosexuals can operate openly as educators, which they still really cannot do in Queensland, it still becomes easier to get access to those people and to get educational material in front of them and to try to change their attitudes. Even if it does not in itself bring them forward, it creates the situation where it is easier for other means to do that.

Mrs EDMOND: Most points that I wished to cover have been covered already. However, I have a couple of points. When you were talking about safe sex, you were trying to bring out the fact that there are a whole range of activities there outside of anal sex, which we tend to be concentrating on today, when referring to the AIDS problem, were you not?

Dr Gallois: Yes.

Mrs EDMOND: That is important to note. Another problem that I have with the Sturgess report is that my professional memory of that is that it caused a lot of criticism because Mr Sturgess did not like to come to terms with the fact that most child molestation occurred within the family. The professionals in that area criticised that fairly strongly, did they not?

Dr Gallois: Yes. That is in fact the point I was making a moment ago, that it is very important to remember that the vast majority of child molestation comes within the family and it is heterosexual.

Mrs EDMOND: The other point I would like you to think of is that, when we are talking about treating homosexuals for their problem, we have surely put them through a fairly lengthy inversion therapy already?

Dr Gallois: Yes.

Mrs EDMOND: Has that changed anything or been successful?

Dr Gallois: That is right. In fact it is worth pointing out that in general the people whom clinicians have treated are people who very much want to change but they are not able to do so.

Mrs EDMOND: The other point I would like you to comment on is the threat to the family. We have heard that homosexuals are a serious threat to the sanctity of the family group.

Dr Gallois: Every study that I know of that has looked at homosexuals has found 40 to 50 per cent or more of them in continuing relationships, that is, they are looking for a family-type relationship. They are also very keen to maintain good relationships with their own family, which becomes very difficult in a climate where they are heavily stigmatised.

Mrs EDMOND: So the threat to the family is a real problem with homosexuals?

Dr Gallois: I would not see the presence of homosexuals as being a threat to the family in any sense. They are every bit as family oriented in the large sense as everybody else is.

Mr SCHWARTEN: Are there any family circumstances that tend to be breeding grounds for homosexuals more than others? Is there any pattern?

Dr Gallois: That is one of the problems in looking for a cause of homosexuality, but there do not seem to be. In fact, one of the frustrating things, I guess, for researchers is that, for everything that you can point to in a family that might produce, or seems to produce, or that somebody thinks produces homosexuals, it also produces heterosexuals in the same kinds of numbers that you get them in the population as a whole.

Mr SCHWARTEN: There is no evidence to prove that good parenting or bad parenting affects it?

Dr Gallois: No. People have looked at dominant mothers, dominant fathers, absent fathers, presence and absence of siblings, single mothers, single fathers, and homosexual parents, and none of it seems to make any difference. Whatever it is, it is something more complicated than one factor in a family.

The CHAIRMAN: Thank you very much.

Dr Gallois: Thank you.

Mr Cox: Thank you.

The CHAIRMAN: We now invite the Lutheran Church of Australia. For the record, could you state your name and address, and the name of your organisation?

Rev. Renner: My name is Herbert Paul Vincent Renner. I am the President of the Lutheran Church of Australia, Queensland district.

Mr Larsen: I am David John Larsen, the Vice-president of the Lutheran Church, Queensland district.

The CHAIRMAN: As you would appreciate, we have had an opportunity to read your submission, but we would appreciate it if you could make a few brief introductory remarks. Then we would appreciate the opportunity to ask questions.

Rev. Renner: Thank you very much for the opportunity. First of all, I need to say that the remarks that I submitted by way of letter to you earlier were largely in response to a report that had come out in the press. They also had attached to them a submission that was adopted as far back as 1975.

I need to say that we really represent our church's commission on social questions which has been working on a rewrite of that particular statement. The basic thrust in the statement remains unaltered, although a lot of what they describe as modern-day research or present-day research has been incorporated into it. They have made available, if your committee is interested, an additional statement for your perusal. If you would give us permission, we would enjoy the opportunity of reading some paragraphs from that submission, bearing in mind the time constraints that are restricting our operation.

The CHAIRMAN: They are the ones that are different from the 1975 general synod decision?

Rev. Renner: That is right. These are this weekend's production, in fact.

The CHAIRMAN: You can't get any more recent than that.

Rev. Renner: Not without reverting to yesterday. Is it permissible to read some paragraphs?

The CHAIRMAN: Yes.

Rev. Renner: I will leave out some of the technical material which I am sure you can have better presented by researchers, doctors, psychiatrists and psychologists.

By way of introduction: the Lutheran Church of Australia has a long tradition of socio-moral involvement in the affairs of the nation. This involvement has a very distinct character in view of the church's teachings on the role and responsibilities of both church and government. The church is always conscious of the danger of assuming the role which is not strictly compatible with its very mandate and mission received from its Lord.

However, the church confesses that governments in this world are also functioning under the Lordship of Christ and that their responsibilities pertain to the promotion and protection of the common good of all members of their nations, states or territories. It is within the boundaries of its mandate

and mission that the Lutheran Church of Australia exercises its pastoral responsibility towards the Government and the nation.

The church's submission on the proposed reform in the laws relating to homosexuality is written for the purpose of sharing its insights and views on the matter with those responsible for the preparation and drafting of appropriate legislation.

Then there follow descriptive comments about homosexuality which, with your indulgence, I might pass over?

The CHAIRMAN: Yes.

Rev. Renner: And diagnosis. I then move on to attitudes towards homosexuality and in particular we would like to concentrate our comments—I wonder whether your committee would like copies of it circulated now?

The CHAIRMAN: We certainly would.

Rev. Renner: For your orientation, Mr Chairman, I am moving through pages 1 and 2 now to page 3, and that almost takes us, as you might be glad to hear, to the end of the submission.

I am reading at paragraph 2.7 and the subsequent paragraphs, which I think are most pertinent to your inquiries. How the Lutheran Church addresses homosexuality: Lutherans distinguish between homosexuality as orientation and homosexuality as a deliberately chosen alternative life-style as proposed by the so-called gay movement.

Lutherans know that the Holy Scriptures do not condone homosexual behaviour; they forbid such behaviour. No Lutheran faithful to the scriptures can condone homosexual behaviour. The church will advise, counsel and support homosexuals in their efforts to seek help. They will not cooperate, for instance, in trying to find suitable partners for homosexuals.

However, the church also realises that there is a difference between what it refers to as sin and what is generally known as crime. Homosexual behaviour is always, in our view of the term, sinful. It does not imply that it is always criminal.

I turn now to the paragraph headed "Support services for homosexuals". The Lutheran Church supports the formation and maintenance by the Government of support services for homosexuals. The telephone directory lists a variety of health services and counselling agencies dealing with problems related to sexual health.

However, the church is aware that the secular concept of sexual health differs from the Christian concept of sexual health. Therefore, its own counselling services will be guided by the indicatives and imperatives contained in the word of God.

The Lutheran Church as early as 1975 adopted and published a statement on homosexuality which concludes with the words—

"The Church, while rejecting on the one hand the movement which claims tolerance of homosexual behaviour in the name of freedom of the individual and of moral progress, must also resist the

popular reaction of persecution and ostracism. The Church must exhibit understanding and sympathy for the homosexual, show love and pastoral concern, being ready to give help and encouragement in whatever way possible. It must proclaim to homosexuals, as it does to all humans, the judgment of God against sin, above all the forgiveness of sin for Christ's sake, and the possibility of a new life through the power of the Holy Spirit, and must assure them of complete acceptance into the people of God."

Then there is the paragraph which is probably the nub of the submission. The Lutheran Church of Australia, Queensland District, urges the Government in its desire to reform the laws of the State on homosexuality to take the following into account—

- (a) the socio-moral fabric of our contemporary society clearly bears the marks of a long-standing Christian tradition in which human values, responsibilities and moral accountability are seen as being of paramount importance;
- (b) the fundamental issues related to the socio-moral health of our society ought to be taken very seriously, which implies that the following matters should be considered—
 - (i) the unique significance of marriage and family formation;
 - (ii) the moral health and protection of children and the young;
 - (iii) the maintenance of the rules related to matters of public decency, public health and individual and communal responsibilities and rights;
 - (iv) the protection of the homosexual man and woman from negative discrimination, harassment and persecution;
 - (v) the contents of the preamble to the existing Western Australian legislation should be considered as an essential part of proposed legislation in Queensland;
 - (vi) the notion of homosexual behaviour as being a responsible "alternative life-style" should not be entertained in legislation;
 - (vii) the idea of "homosexual marriages" should not be a legitimate part of any health education program in which students may or must participate;
 - (viii) homosexual acts between consenting male or female adults "in private" should not constitute criminal behaviour as defined by the law;
 - (ix) the proposed Queensland legislation should deal with homosexual offences in the same way as it deals with other sexual offences and should be based on the principles and administration of justice by which the

moral goods and rights of each and every citizen of the State are being protected.

The CHAIRMAN: I thank you for that additional document which I think spells things out in more detail than the summary that you had provided to us from the general synod of the 1975 convention. It is of considerable help. I thank you for that.

The front page of your initial submission states—

"Amongst other things, it calls for understanding, compassion and a non-discriminating attitude over-against people with a homosexual propensity. It counsels against and denounces homosexual acts declaring 'Such behaviour is against the will of (our) God . . . and hence it is a sin.' It offers pastoral care to homosexuals, as the Church does to any person."

I think what you have read out clarifies your position quite adequately. There is only one question I would like to ask, and that relates to the issue of AIDS which, as you have probably gathered during the time you have been here, is central to us. I think it is implied in your submission that you would certainly believe this is a public responsibility because of the public health requirements of the Government to run education campaigns, particularly directed at all those who may or may not be affected by the AIDS virus, and that would include obviously the homosexual community.

Rev. Renner: Most certainly. We do believe that the community—particularly the young community—ought to be very, very informed about the nature of the disease called AIDS, the factors that relate to the acquisition and transmission of the disease called AIDS. Also, we believe, too, that they ought to be apprised of methods by which they can be properly protected against the disease.

The CHAIRMAN: Something that flows on from there—you mention the Western Australian legislation, you mention the preamble. I wonder whether you would have a view on the age of consent?

Rev. Renner: Our church has not pronounced on the question of the age of consent. It would very probably see this question as one to be settled by the community operating through its Legislature.

The CHAIRMAN: Thank you. I appreciate that.

Mr GUNN: The people who come forward to the church seeking assistance, they would be in very small numbers, would they not? They would be people who find they have a problem and they come to the church for some assistance?

Rev. Renner: It is not known in our circles, neither have we statistics of, the number of people who come to be counselled for AIDS. But discussions in pastors' conferences would indicate that there is a small number that does seek assistance. We cannot tell, however, figures.

The other thing is also true, that our ministers are counselled very strongly to protect the privacy and confidentiality of people who come to them, so they would be very, very hesitant about giving any details that might disclose identity.

Mr GUNN: Have you read the Western Australian legislation at all?

Rev. Renner: I must say that I haven't. I understand that our commission has. I regret very much that since they are located in Adelaide they couldn't have a representative present and asked us to represent them in the best—and that is not an altogether very good—way possible.

The CHAIRMAN: I think you have done very well in your submission.

Mr GUNN: The Western Australian legislation came in the form of a private member's Bill. The preamble is not suitable to the gay community in Western Australia, I might say. I do not think a great deal of thought went into that particular legislation so in effect they haven't achieved a great deal as far as Western Australia is concerned.

But of course the spread of AIDS is a major problem that has to be faced by the community and by the church also in the future. You mentioned that cases involving consenting adults in private should be decriminalised. If one or two of those are bisexual, couldn't that encourage the spread of AIDS, too?

Rev. Renner: When we talk about that point in 3 (b) (viii), which states that homosexual acts between consenting male or female adults "in private" should not constitute criminal behaviour as defined by the law, the following paragraph should be read in conjunction with it. That is to say we believe that the whole question should be treated as also heterosexual behaviour should be treated. It is the health experts who would be able to tell your committee more accurately than I could the dangers that accrue from heterosexual—are you talking about heterosexual?

Mr GUNN: Bisexual.

Rev. Renner: Bisexual behaviour. It would be hard to imagine, and I am speaking now personally, that there would not be risk involved in that.

Mrs EDMOND: I had to admire the way you handled the hot potato of age back to the committee. You are taking the line, I gather, from a purely anti-discrimination point of view; that there should be no discrimination to any members of the community and that we should all be treated equally. Is that right?

Rev. Renner: We believe very strongly in that. That does not mean that we, in any way, diminish the emphasis that homosexual behaviour is, in our opinion, a wrongdoing or, as the church technically calls it, a sin; so is the arrogant and ignorant condemnation of homosexuals a sin, too. Each thing, as far as the church is concerned, is a reprehensible form of behaviour.

Mrs EDMOND: I seem to remember in my early days comments of: let he who be without sin cast the first stone. I am amazed at how that has been forgotten.

Rev. Renner: You are a good theologian.

Mrs EDMOND: Getting back to AIDS education for the young, do you agree that it can be done in a sensitive manner if it does not promote or condone homosexual activity, but we need to recognise that that exists when we are educating young people?

Rev. Renner: I feel that, whoever does the education of children, especially in this matter, has to be properly screened. I feel that their own sexuality—if I can refer to it as such—ought to be established as sound. I would acknowledge the fact that, within the system called the State, the State may be compelled not to bring a heavy ingredient of religious content into the instruction. However, at the same time I believe that the instruction, at least as far as children belonging to the church is concerned, would be fundamentally inadequate unless that ingredient was applied.

Mr SANTORO: I have no questions, but congratulations on a very well thought out and well put together submission.

The CHAIRMAN: I thank the Queensland Council for Civil Liberties for being tolerant. Our program got out of hand. I hope we have not inconvenienced you. Would you state your full names, addresses and your organisation?

Mr Keim: We are from the Queensland Council for Civil Liberties. My name is Stephen Keim. I am an executive member of the council.

Ms Sutherland: My name is Narelle Sutherland. I am an executive member of the council.

Ms Tonkin: My name is Stephanie Tonkin. I am the secretary of the council.

The CHAIRMAN: Mr Keim, we have obviously had an opportunity to read your submission. We would appreciate a few opening remarks.

Mr Keim: I should say, firstly, that I had an opportunity to read a couple of submissions that the committee has received. Firstly, I would like to refer to that of Mr Phillip Tahmindjis, the senior lecturer in law at the Queensland University of Technology. I very strongly recommend his submission to the committee. In a much more learned and closely argued way than we were able to produce, on almost every topic his submission produces what the council would say if we had that degree of learning and that degree of application. We adopt and endorse his submission and go so far as to say that the results of the detailed research contained in his submission may well be of great assistance to the committee in preparing its report.

I have also had the opportunity to read the submission of Bishop Gerry on behalf of the Catholic Social Welfare Committee. As a product of the Catholic school system, I congratulate the social welfare committee for the advances that it and the church have obviously made in the 20 years since I stopped going to school. I sometimes in the back of my mind wonder about the need to wear glasses—the teenage conduct I engaged in against the teachings of the church. However, having said that, many of the assumptions contained within that submission are flawed. In particular, in relation to the extent to which it endorses the Western Australian legislative model, the council strongly opposes that aspect of the social welfare committee's submission.

I think I can be more general than that, in that the Catholic submission is perhaps a more benign expression of a conceptually flawed approach brought to the debate about the relationship between law and morals by a number of groups that, rightly or wrongly, call themselves Christian groups. Mr Tahmindjis is of assistance in that area, particularly to the extent in which he places into a greater context the various Biblical prescriptions that are sometimes relied upon by those groups.

I wanted to deal with a couple of concepts in particular. Firstly, at page 5 of the Catholic submission there is the claim that a particular set of values are Christian values and, it follows from that, that those values are something that the law and society have always defended and, therefore, they must continue to do so. In that regard we would say that the history of Christianity is a history of schisms. The factionalism of Christianity over the

2 000 years of its existence probably makes Trotskyism look like a Welsh choir of mass voices singing in unison. There is really no such body of shared beliefs which are Christian values. Those parts of the Christian church which seek to impose their particular version of Christian values upon the whole community are really the sorts of groups which have voiced broad acceptance either within the Christian movement or within society more generally.

Apart from the factionalism aspect, just as Christianity took over long-standing pagan bank holidays and turned them into Christmas and Easter, the Easter bunny and the holly of Christmas are not in the celebrations for nothing. Many allegedly Christian values are adopted from pre-existing cultures, such as various indigenous cultures. I suppose the more obvious example is the extent to which the post-Renaissance theologies are really cover versions of Aristotle's and Plato's works.

While I endorse much of what I call Christian values, they are not necessarily all exclusively Christian in their origins. This concept is picked up by the Catholic Social Welfare Committee and much of the debate on these topics.

In the past the laws have not reflected—nor do they need to continue to reflect—some form of exclusively Christian values. The true situation is that, whatever values the law does reflect and what values it should reflect, are matters for rigorous analysis. The existence of laws of a particular kind needs to be justified with similar rigour. In our view, this analysis shows that the laws against homosexual conduct are, firstly, useless and, secondly, very harmful in their effect.

The other argument which is again put forward as this so-called Christian contribution to the debate is the concept that, in some way, homosexuality and the legalisation of homosexual acts is, in some way, attacking the concept of the family or will lead to family break-down. This is picked up in the Catholic Social Welfare Committee submission at page 8. To put that into context, I think one would firstly have to say that these types of arguments often refer to an archetype of a family that either does not exist or has little or no reference to reality. You will find in most cases that, when people talk about the family in this sort of argumentative way of seeking to call into support on their side a particular moral argument, they usually do not define the family.

We would make the point that family structure and family relationships are markedly variable at any one time in any one society and that they also vary from era to era and from culture to culture. It is also the case that many individuals experience the family as an influential factor in their lives. However, it is not the case that, for every individual, his or her particular family has been a particularly constructive influence in his or her life. David Copperfield, the Dickensian character would be the first to state that, in many respects, his family was destructive in its effect on him. It is true to say that the influences that one projects through the family are a reflection of the influences that one probably projects through other relationships in the society. We see the threats to the family structure as being more technological and broadly social—things such as mobility, employment or lack

of employment, television, war, wealth, poverty and famine. Those are the sorts of things that really lead to breakdowns in family structures, particularly where the changes are occurring so quickly. The family structures that exist in a particular society do not have time to evolve and to change with the structures.

It is also the case that homosexual people operate within family structures in a whole series of roles. They do so just in the same way as non-homosexual people. They fill a variety of roles—parent, sibling, uncle, aunt and so on. It follows, in our view, that homosexuality and family structure have no normative relationship one to another. Homosexuality is not a threat to the family any more than the priesthood is.

If I can refer to the Western Australian model. Mr Tahmindjis referred to the legal uncertainties associated with it and also the international problems that arise from it. I want to mention two aspects, one of which is that the legislation really provides a moral imprimatur to the worst kind of harassment, the worst kind of poofter-bashing that you can imagine, because that preamble is really saying that homosexual people are second-class citizens; they offend against the society. Even though the law does not purport to seek to lock people up, it does give a moral imprimatur to those groups in the community who are likely to engage in violence against homosexual people. By making homosexuals second-class citizens, such a legislative approach will exacerbate the problem that the current law in Queensland causes, that is, homosexual people will be scared to report assaults, robberies and other harassments that they may suffer.

The second aspect of the Western Australian model is the censorship implications of, particularly, sections 23 and 24 of the Act as they relate to teaching in primary and secondary schools. In my view, it is very difficult to lay down what is good teaching and what is bad teaching. The moment that you start doing that, you produce a whole series of illogical censorships that are likely to cause a problem. If one looks at that Act, it creates all sorts of uncertainties from a censorship point of view. It suggests that the *Kinsey Report* could well be banned in Western Australian secondary schools. It suggests that the Catholic submission may be banned because, in some degree, it gives some comfort to homosexual people. Perhaps the Lutheran submission, which the committee has, may also be banned. Perhaps the Fitzgerald report may be banned, because it gives some comfort to and promotes homosexual conduct. Perhaps even the transcript of these hearings would be banned in secondary schools because it tends to give comfort and support to homosexual conduct. Therefore, there are a whole range of uncertainties relating to the censorship question which we tend to think are likely to arise from any sort of approach such as that adopted in Western Australia.

As an addendum to the first point I made, complaints have been received by the council and anecdotal material received by various of us, particularly in our roles as lawyers, which has indicated that there has been a very high degree of police entrapment conduct, police agent provocateur conduct, with regard to people who are thought to be homosexuals. There are court transcripts which show police officers dressing in casual clothes and

making approaches to people around public toilets and in other public areas. This is a problem that will not be dealt with simply by changing the law. It needs to be dealt with in an administrative way also, by directions to the police. I understand that the Police Minister has given some such directions. However, it also must be dealt with by way of a change in attitudes. Police are going to be encouraged to engage in that sort of harassment if a Western Australian-type legislative approach is maintained.

So that is a third reason why I particularly argued against such an approach. I would say in conclusion that the arguments against reforming the laws with regard to homosexuality are, to a large extent, based on superstition. The analogy that has been made by various people at various times about the burning of witches in the past is a good analogy. I urge the committee and, in due course, the Parliament to help bring this particular piece of witch-burning to an end.

The CHAIRMAN: I noticed in the press that the council has made comments over a period of time—and you alluded to them—in relation to police activities in public toilets and so on. Obviously, we are concerned here with examining homosexual acts between consenting males. Are you suggesting that the law should be changed in relation to activities in public toilets in any way?

Mr Keim: No. Our view is that the law should be silent in that regard. There is a need for laws such as section 7(c) of the Vagrants, Gaming and Other Offences Act, which seeks to prevent affronts to public decency. It may be that some conduct in public toilets by homosexual people or by heterosexual people constitutes a breach of those provisions, and those laws should remain. What we are saying is that the law should not discriminate between homosexual and heterosexual conduct. But if there is not a problem, if there is not a whole series of complaints, we think that the police should not go around seeking to engage suspected homosexuals in conversations or make advances to them.

I live quite close to a particular set of public toilets. That is obviously a place where homosexual people meet. However, I am not aware of any incident that has occurred in the neighbourhood by which individual people have been affronted by what is going on there. I think that the problem is greatly overstated.

The other thing to say with regard to that is that the seeking-out of anonymous sex is, to a large extent, a product of the entrenched or besieged position in which homosexual people find themselves in an intolerant society. Changing the law will not make that go away overnight. The need for that sort of meeting-place is likely to diminish over time if the laws are changed and as people become more convinced about general public tolerance.

I am of the view—and the information paper does reflect this in the opinion polls that it quotes—that the public generally is quite tolerant of homosexual conduct. It is really a very small minority who are intolerant. The law itself does not reflect public opinion, in my view.

The CHAIRMAN: What is the council's legal opinion as opposed to what you have already said of the preamble in the WA legislation?

Mr Keim: I have not attempted to interpret it from a legal point of view. In one sense, it assists in interpreting the other sections. I saw Mr Gunn shaking his head when I was talking about the possible interpretations of sections 23 and 24. He may well be right that I am going too far in saying that the particular documents that I mentioned may contravene section 23 or 24. But those sorts of more extreme interpretations are certainly more likely to be upheld by the court as a result of the preamble being there.

What it does tend to do is to introduce a lot of uncertainty into the law which need not, and should not, be there.

The CHAIRMAN: At point 1 on the first page of your submission—and this is generally not in relation to your submission—you say that what adult persons do with the consent of each other in private is no concern of the criminal law. It has been put to us today that people, for example, cannot commit things like incest in private; they cannot use heroin in private. That is used as an argument to say that if the law can have a say in relation to those matters, it can have a say in relation to what consenting males do in private. Do you have a view on that?

Mr Keim: Yes. The intrusion of the criminal law into private activities is for the protection of the young and vulnerable. The age of consent laws obviously relate to that. We say that the age of consent should be the same for homosexual and heterosexual conduct.

The CHAIRMAN: Do you put that at a limit? Do you have a view as to what that should be?

Mr Keim: I have no strong view that it should be changed from 16. You can argue it up or down. There is a lot of complex argument to say that it could be lowered, but I do not really argue that at all strongly. It would be unrealistic to raise it. The main moral justification for the laws with regard to incest is to protect children from assaults and rapes by their fathers, stepfathers, uncles or whatever. That is the main justification. I do not really think that argument needs to be taken much further.

The Fitzgerald report did call for a radical rethinking of the approach to the way in which the law deals with recreational drug-taking. There is a whole series of views with regard to that which I don't think this committee needs to get into. But I can distinguish between heroin-taking and sexual issues on the basis that heroin is likely to lead to ill health and there is more likely to be a demand upon the public hospital system. So, the distinction may be drawn on that basis. But generally, the approach of society with regard to issues such as homosexual conduct and recreational drug-taking is that a moral approach is taken to one, and a utility approach is taken to the other. The arguments in favour of prohibition of alcohol were that people did not want a series of alcoholics around the place. Masturbation may make you go blind, but I do not think that homosexual conduct turns you into something akin to an alcoholic. So the whole approach of society is different in terms of its justification for those two different laws.

Mr GUNN: Do you consider at the present time that the public toilets are being overpoliced?

Mr Keim: I am not sure of the current situation, but because an expectation is sometimes raised that times would change, in the first 12 months of Mr Ahern's premiership, the council received a very large number of complaints about police not only inspecting public toilets, but actually engaging in entrapment activity; that is, they would either approach people they suspected were homosexuals or would stand around in a way in which they hoped that they would be approached. I have a copy of a letter from a solicitor which was sent to Mr Ahern that sets out a number of examples of that type of entrapment—people who were actually charged with offences.

The CHAIRMAN: Would you leave that with Mr Woodyatt?

Mr Keim: Yes. In answer to your question, I do not know at the present time. I have no objection to police inspecting public toilets from time to time to make sure that people are not being affronted or assaulted; but to go and seek out homosexual approaches by dressing in your tightest jeans is something that I personally object to very much.

Mr GUNN: During the time that I was the Minister for Police, I received a terrific number of complaints—they would be different types of complaints to the ones that you would get—from people saying that there was not enough police presence in those particular areas.

Mr Keim: The toilets I am referring to, which are close to my place, are subject to police inspection from time to time. The police drive up and down the park.

Mr GUNN: Dealing with the Western Australia legislation, what intrigues me about that is that it was a private member's bill and it went backwards and forwards with every party having a chop at it. After a long time—we talked to the person who brought it forward—apparently the gay movement in particular was very dissatisfied with it.

Mr Keim: Yes. I am critical of the legislation. I can understand that people associated with the gay movement would be dissatisfied with it, too, and critical of it. It has the markings of legislation that went back and forth, a compromise-type thing, and looks like bad legislation produced as a result of that process.

Mr GUNN: Apparently there were a lot of compromises and amendments and that is why it took a long time to get through. You have not mentioned the AIDS problem with which we are so very concerned, as most people are concerned.

Mr Keim: I have dealt with that on the public record from time to time. I am of the view that the more that you create or retain a stigma either for sufferers of AIDS or for homosexuals in particular, the less effective are going to be what would be your otherwise most effective weapons against it, and they involve education, counselling and voluntary testing. Compulsory testing would be counter-productive because it would drive people underground, just as draft-resisters were driven underground during the conscription days of the late 1960s and early 1970s. I think that the criminal legislation in Queensland is counter-productive and any retention of that preamble which says "We are not going to lock you up or blame you any more but we still think that you are a mob of homos" to homosexuals is going to retain that stigmatic situation

and make education, counselling and voluntary testing aspects less effective than they would otherwise be.

Mr GUNN: In the area of education, they say that they will only listen if they want to listen, will they not?

Mr Keim: Well, that is true. With any particular social program, you are dealing with a whole series of people, but I think they are more likely to want to listen if they are not treated as second-class citizens, and they are more likely to want to listen if they are not likely to be subject to criminal laws. The less the stigma exists, the more freely it can be talked about in the group that is going to be reached. It is obviously an incremental thing. You are not going to change a percentage of 20 into a percentage of 98 overnight, but you might well change a percentage of 67 to a percentage of 78. I think those incremental changes are important over time.

Mrs EDMOND: We have heard a wealth of evidence today.

Mr Keim: You must be thoroughly bored.

Mrs EDMOND: We are trying to sort it out. This is just an opinion rather than something based on figures that we have. Do you think there will be an explosion of the homosexual population if these laws are repealed?

Mr Keim: Mr Tahmindjis gathers together a whole series of survey materials from the areas from different countries. The conclusion with regard to that is that the law is not a deterrent. People still screw; it is just a question as to whether they feel guilty about it or not. I just do not think there would be any change at all. Most of the survey data indicates that. If you are Catholic right now, I suppose you enjoy it more because you feel guilty about it.

Mrs EDMOND: I was wondering about that.

Mr Keim: However, no, most of the research materials indicate that the law in terms of activity does not make any difference; it just makes a difference in terms of harassment and negative feelings.

Mrs EDMOND: As somebody who left this country during the Vietnam war because of the attitudes of the Government, I have to say that I sympathise with some of the things that you have raised. However, you have covered everything else that I wished to ask.

Mr SANTORO: I have a rather lengthy question for you. However, before I ask it, I should place on record my strong reservations about your comparing priests with homosexuals. I also am a product of the Catholic school and church system. I found that objectionable and I wanted to place that on record. You have a right of reply in answering my major question. I invite you to make comments on that. They have contributed enormously to the fostering of family attitudes and spirit. I found your remarks slightly offputting.

Assume a predominantly Christian democracy and the majority of people in that Christian democracy elect the majority of parliamentary members with a view to having the law reflect two things in relation to homosexual activity: one, that homosexual acts between consenting adults in private be decriminalised—in other words, not viewed as illegal; and, two, that the law should also reflect the community's view that homosexual practises

are not either Christian or desirable. On those assumptions, what principle of representative democracy do you believe the community invoked to demand the electors in such a Christian democracy of their right to have their views enacted in the Parliament whilst they still respect the basic civil liberties of certain and hitherto discriminated-against sections of the community?

Mr Keim: In terms of philosophical tradition, I go back to John Stuart Mill and Professor H. L. A. Hart. Democracy, for me, involves two elements. One is that we have majority representative rule, not dictatorial rule, or rule of people who are not elected on a majority basis. But that does not mean to say that it follows from that that this majority-elected group can then impose whatever its views are upon either the majority or minorities within the community. I think I am on the public record as saying that if I were Premier and 99 per cent of the community were in favour of capital punishment I would still not, as Premier, do anything to bring capital punishment into existence. So there are limits, and majorities are required to tolerate minorities and to respect and to give a maximum degree of freedom to minority groups within the community. The reasons why I oppose a declaration that homosexual conduct is wrong as expressed by the Parliament is because, firstly, the Parliament has got no right to go into the bedrooms of minority groups; but, secondly, because of the utilitarian aspects of that, that it will promote violence, poofter bashing, harassment and all of the things that homosexuals already suffer from, albeit promoted by that sort of expression of opinion by Parliament. I think that answers your question.

With regard to the other point, I understand your feeling a bit offended by my comparisons. I thought it needed a bit of provocation. However, substantively in response to your remarks, of course homosexual people contribute to the development of the family as well and they play an important role within a whole series of families.

Mr SANTORO: That has not been denied.

Mr Keim: I appreciate the work of priests. Some of my best friends are priests. I regard them as playing an extremely important role within the community.

Mr HARPER: I have no questions. I must say that I support the views of Mr Santoro. I am not a Roman Catholic myself, but I think that the comments that you made in regard to the Catholic church's teachings and views were really uncalled for and did nothing to promote the views that you put forward on behalf of your particular group.

The CHAIRMAN: I thank the council for its submission. We will adjourn these proceedings until 10 a.m. tomorrow.

The Committee adjourned at 5.10 p.m.