

# REPORT OF PROCEEDINGS OF HOUSE OF KEYS

Douglas, Tuesday, 31st March 1992  
at 10.00 a.m.

Present:

The Speaker (the Hon. J.C. Cain) (Douglas West); Hon. A.R. Bell and Mr. T.R.A. Groves (Ramsey); Mr. R.E. Quine, OBE (Ayre); Mr. J.D.Q. Cannan (Michael); Hon. H. Hannan (Peel); Mr. W.A. Gilbey (Glenfaba); Dr. E.J. Mann (Garff); Hon. D. North (Middle); Messrs. P. Karran, R.K. Corkill and G. Waft (Onchan); Hon. B. May and Mr. W.D. Corlett (Douglas North); Messrs. A.C. Duggan and D.C. Cretney (Douglas South); Messrs. D.F.K. Delaney and P.W. Kermode (Douglas East); Mr. A.F. Downie (Douglas West); Hon. J.A. Brown (Castletown); Hon. D.J. Gelling (Malew and Santon); Hon. M.R. Walker, CBE, Hon. J. Corrin and Mr. N.Q. Cringle (Rushen); with Prof. T. St.J. N. Bates, Secretary of the House.

*The Chaplain took the prayers.*

## LEAVE OF ABSENCE

**The Speaker:** Hon. members, the member for Douglas East, Mr. Kermode, has leave of absence this morning to attend a funeral.

## PROCEDURE UNDER STANDING ORDERS — STATEMENT BY THE SPEAKER

**The Speaker:** Now, before we start the Agenda, members will remember that at our last sitting the member for Douglas East, Mr. Delaney, sought clarification of the applicable procedure where an hon. member does not wish to proceed with business in his name which appears on the Agenda. Where a member has moved a motion and thereafter decides not to proceed at that sitting, under Standing Order 60 the member may withdraw the motion but only with the leave of the House. Where a member has not moved a motion and does not wish to proceed, the member does not require the leave of the House, and I think that is the fundamental point that was being made. Indeed, in strict procedural terms the member need take no action at all. However, Standing Order 37, paragraph (1) provides that the business of the House shall be ordinarily that set forth in the Agenda, and I am sure that the House would consider it courteous if a member who did not wish to proceed with business on the Agenda explained to the House that that was the case.

## BILL FOR FIRST READING

**The Speaker:** Hon. members, we now turn to the Agenda and the first item is Bills for first reading and I call upon the Secretary of the House.

**The Secretary:** The Statute Law Revision Bill, Mr. Kermode.

## FIRE PRECAUTIONS (AMENDMENT) BILL — CLAUSES CONSIDERED

**The Speaker:** Item number 2 on the Agenda, hon. members, is the clauses stage of the Fire Precautions (Amendment) Bill. Now, this is in the name of the hon. member for Onchan, and I would suggest, hon. member, that each clause be taken separately.

**Mr. Karran:** *Vainstyr Loayreyder*, hon. members, Clause 1 and Schedule 1. This clause creates a more flexible system of fire precautions in buildings which at present require a fire certificate. The Fire Authority is empowered to grant an exemption from certification. It may supplement it with a code of practice and improvement notices to remedy defects in fire precautions in exempt premises.

Schedule 1 inserts a new subsection (3A) in the 1975 Act enabling a designated order to specify a description of premises as qualifying for exemption by the Fire Authority. Under the new Section 4A in this schedule it widens the criteria by which premises may be exempt or qualify for exemption.

I beg to move that Clause 1 and Section 1 stand part of the Bill.

**Mr. Walker:** I am pleased to second, Mr. Speaker.

**The Speaker:** Thank you. Does any hon. member wish to speak? If not, I will put the motion that Clause 1 and Schedule 1 stand part of the Bill. All those in favour please say aye; to the contrary say no. The ayes have it. The ayes have it. We now move on to Clause 2.

**Mr. Karran:** *Vainstyr Loayreyder*, Clause 2 deals with the Fire Authority having the power to make charges for the issuing of fire certificates. The fee is to cover the administration cost, not the inspection cost. I hope that this hon. House will support Clause 2 standing part of the Bill. I beg to move.

**Mr. Walker:** I beg to second, Mr. Speaker.

**Mr. Kermode:** Mr. Speaker, I rise to oppose this move

made by the hon. member, the mover of the Bill. I feel there are many people within my own constituency, especially in the hotel industry, who over the years once had an inspection, have had to consider a considerable amount of expense in carrying out what the fire services wished them to carry out in order to make their building safe. Whereas my constituents are not against the principle of having guidelines or recommendations, it was not so long ago in this hon. House we debated this once before - in another place, I should say - where there were all kinds of problems with inspections not being carried out on time and not being done in the manner in which it should have been done, and there were a lot of places and a lot of premises that were left and not looked at. Thank goodness now we are getting to a situation where the majority of the hotels on the promenade are now coming up to standard, and I know the views of the Tourism Department and they have also accepted that the hoteliers themselves are trying to help themselves out.

But the fundamental principle of asking them also to pay for a fire certificate when you consider they are in an industry that has been ailing for the last 10 years, they have not got the business that they have always had - there has been no indication from the hon. mover of the Bill as to what the charge will be for this particular fire certificate; we have had no information whatsoever. So therefore on principle I cannot support this and I hope other members will support us in this today.

**Mr. Delaney:** Mr. Speaker, in the last four years, as all the hon. members are aware, we created in the Isle of Man some 800 new positions to be paid for by the taxpayer. Whether or not we are in recession or we are going into recession or we are having cutbacks or money will not be available for major priority projects can all be debated and thought about, but I am sure, as one member of this hon. House, that if we do not check ourselves in the creation of the empires that are springing up and have sprung up we will be finding ourselves unable to manoeuvre financially to achieve those political objects, and these words of mine have been supported by actions of the Government even since the election. We have found ourselves, because of certain restraints that have to be placed on public expenditure, having to look very hard and close at how we operate and what priorities we will proceed with.

I believe that this division of the Home Affairs Department has not completed as yet the works which were originally identified by the report of the Tynwald Select Committee where we had to create because of the chaos that was caused certainly within the industry - and we are all involved in tourism; it is still one of the major incomes to Government - the problems have not been resolved in that area and an awful large amount of the properties that we identified and we pursued to be certificated and to be brought up to standard have not been completed at this moment in time, and yet we had to bring in and had to create a number of positions within the Fire Service to tackle that problem.

I believe now, as we have seen already in certain areas, we are going to see ourselves proceeding down the road of not holding on to the limitations of the amount of money the public will require for themselves to stay in business, for themselves to be able to compete in this short recession, but we are passing back the costs of Government not through taxation but through charges levelled at the public, those in business, those people we depend on to pay their taxes, to maintain the income to Government for us to expend on

their behalf.

I believe this Bill is certainly premature. I believe it is wrong at this moment in time. Whether we have a recession or we have a levelling off of the economy or call it what you will, we certainly have not got the growth in the economy that we have had over the last four years, and I believe that this Bill is going to put another aid to this small administration to create itself, to expand its little empire, and be able to do it by having the power within this clause to put those charges for the expansion of the empire back onto the public.

The member - I think 26 words he used to explain this clause, but the importance of this clause is frightening. We have not been told in what areas these charges in reality are going to be. We have not been told when the rest of the Bill comes into it, and I voted against the last reading because we have not had a clear identification of what the policy is going to be. It is just 'Vote for this, leave it to us and we will get on with it.' Well, that is the way to really damage private enterprise. Take the number of small businesses in the Isle of Man, the small man fighting at the moment to survive, whether it be the little garage or the small guesthouse or hotel or when we get to the shops or other small businesses, and we are now passing this power to this Authority to carry on creating an empire and the charges that will be levelled, because they will be levelled against those people who under law will require these services. I believe at this time it is a step down the road and I cannot see the overall policy of this. I believe it is going to be damaging to the Isle of Man's economy where we depend on so many small business people. I believe this Bill is the tool that will help to destroy and to put extra charges onto the public who at this moment in time are having difficulty surviving.

I understand the need for public safety in fire. I am very conscious of that. But if we go back over the last few years we will see what has happened. We have not completed the policy that was set out and identified at this moment in time in relation to that business which is going through turmoil. Even the Minister of Tourism will identify that. They have not resolved those problems yet and here we are going to heap more coals on the fire.

As much as I am in support of protection of the public and safety, I am more in support of making sure the public are able to compete in private enterprise on a small level, and I believe this will be found in years to come to be a nail in the coffin of small enterprise in the Isle of Man. I believe this clause that puts the charges not in general revenue but straight back onto those people is damaging. I am sorry for the hon. member for Onchan who is moving the Bill, but I told him privately that it was my concern. I believe this is a time to try and survive in our economy and not a time to put extra charges back onto those small businesses. Mr. Speaker, I am opposed to this second clause.

**Mr. Corrin:** Mr. Speaker, I was the person who chaired that referred to Select Committee about four years ago, and indeed it is from our report that several of the items embodied now in the clauses are now being acted upon.

It was apparent to us then that a considerable amount of administration was being done by the fire protection officers perhaps over and above what you would reasonably expect them to do, and therefore we felt that perhaps - and I think it has to be accepted that of course fire precautions apply to a wide range of businesses right across the board and not only to the tourist industry - and we felt at that time that perhaps the responsibility should be on the applicant or more

responsibility in respect of the applicant should be done perhaps even by the private sector before it arrives on the fire protection officer's table. But that was something that did concern us at the time.

It is now suggested that there should be a charge put on. But that does not mean to say that that charge should be excessive - it can be a nominal charge, a principle, and although I do not see at first hand, perhaps the mover can tell us whether or not any proposed charges should come before Tynwald for approval. I do not know. If they do, then of course comment could be made, although I accept it is probably accept or reject at that stage; I think that is usually the way it happens. Nevertheless it would be brought to our attention and it could be dealt with then. But I think the principle arising from our investigations at that time is that a charge should be made.

Now, as far as putting a burden on, say, the tourist industry, well, of course that is to what degree the charge will be made and imposed. So I think the principle is right, but one would hope that in the first instance anyway recognition would be made not to make it a hefty charge. Thank you, Mr. Speaker.

**Mr. Cringle:** Mr. Speaker, it is interesting that my hon. colleague is talking and asking the hon. mover to see in fact if there is reference in the Bill to fees or charges having to be laid before or put before Tynwald, because, as I think the Clerk is aware, already sitting on his desk there I have sent him a possible amendment, which he is having a look at, to introduce just that very measure into Clause 2 of this Bill, in other words that the fee would have to be laid, and I do so because in fact it appears to me logical that it should so happen, and I go along entirely with my hon. colleague when he says the charges and fees could be nominal, and I am very well aware that in Clause 2 when you come to 5(2), where it refers to 'After paragraph 4 of Schedule 1 of the 1975 Act', the last line of (2) there refers to '...other than the cost of any inspection of the premises.', and in fact the hon. mover, in his short remit to this clause, did comment that the fee would be for administration and not for the inspection. Now, we could very well take that to mean the piece of paper which is written and the signatory which is on the piece of paper, and I think that would be reasonable and logical. Nevertheless we had only a short while ago a discussion, as the hon. mover is very well aware, about his Water Authority and the fixing of rates and the fact that it did not come in front of Tynwald, and if the learned Clerk is satisfied that the amendment which I have passed forward to his table - It is not in order, so maybe I should keep talking for another five minutes, but I feel that would be remiss, Mr. Speaker, and if it is not in order and the mover can satisfy both myself and my hon. colleague that fees and orders would be laid before Tynwald, well then I would approve the clause.

**The Speaker:** Does any other member wish to speak?

**Mr. Kermode:** I do not think we could second the amendment unless we know what it is.

**The Secretary:** Mr. Speaker, hon. members, I have received a draft amendment from the hon. member for Rushen, Mr. Cringle. I do think there are difficulties with it as it stands and what is giving me a little pause for thought is that of course this is inserting provisions into the 1975 Act and until I have an opportunity to look at the provisions of that Act I cannot really say whether the amendment will

work in its present form, because, as the hon. member has said, I have only just received it on my desk. So I am not saying that it will not work, but I cannot say that it will at this moment. So I suggest that the House might consider that. I will not be in a position in the next couple of minutes, I think, either to look at it.

**Mr. Cringle:** Yes, Mr. Speaker, I did acknowledge the fact that the Clerk was unhappy with the draft amendment which I had passed to his table and in fact I did not move the amendment, sir. If in fact an amendment which would cover it could be properly drafted and did not conflict with the 1975 Act, well then I would still be inclined to acknowledge the feeling which is evident in the House that there should be the availability to Tynwald to have a look at what the fee is likely to be. It is only that very point which I tried to cover by a draft amendment which I sent forward, and the two members for East Douglas had raised the position which was seen instantly, and I think they justifiably raised the question, and on the question being raised I felt that the House really needed the opportunity to discuss whether or not it wanted it to go to the other place for the paper to be laid. The hon. mover is actually indicating across the Floor of the Chamber to me that in fact he may be prepared to accept something being put in at the third reading stage, sir. Now, that is unusual and not probably strictly in accord with Standing Orders, but I would have to take both your ruling and the hon. mover's good wishes on that, sir.

**The Speaker:** Thank you. Hon. members, just for the purpose of clarification, it seems to me that at the present time we do not have an amendment in front of us, but would I be correct, in assessing the mood of the House, to say that perhaps the House might be sympathetic to the concept of suspending Standing Orders when we get to the third reading stage perhaps to enable some form of amendment to be passed at that stage once the proper research has been undertaken?

**Mr. Delaney:** Mr. Speaker, can I crave the indulgence of the House? As the mover has indicated, as identified by the hon. member for Rushen, that he is sympathetic to such an amendment, which is difficult because of the context of the amendment, could I ask the mover then if he would support supporting an amendment in the other place, the Legislative Council, should it get that far, Mr. Speaker?

**The Speaker:** Well, of course that is always an alternative -

**Mr. Delaney:** That is the proper procedure, Mr. Speaker.

**The Speaker:** - but that really is an issue which is strictly outside the control of the members of this House. But I think in order to proceed this morning we have to accept the position that as things stand at the moment there is no amendment before the House and unless anyone else wishes to speak I will call upon the member for Onchan to reply.

**Mr. Karran:** *Vainstyr Loayreyder*, I would just like to firstly reply to the hon. member for East Douglas, Mr. Kermode, that you will see within the Act that we have specified that none of the inspection charges will be taken into account as far as the charges. It will purely be the administration costs.

I would just say to his colleague, the other hon. member, that I think everybody in this hon. House is concerned about the state of the tourist industry and I think everybody is concerned and is committed to a diversified economy, as the member for East Douglas is concerned, and I would hope that whoever was in charge of the Home Affairs Department would take that on board when levying any costs as far as the fees are concerned.

The hon. member for Rushen, Mr. Corrin, is quite right: there is no Tynwald approval. There has been a question mark raised over this point. As far as I am concerned it will be up to this hon. House whether they want to put in an amendment as far as Tynwald approval is concerned. As far as I am concerned I think that one has to trust the Fire Authority to hopefully allow for common sense to prevail, and one has to face up to the reality that if the fees are unreasonable there would be a course of action as far as asking questions in this hon. House or in the hon. Court every month if the fees seem to be unreasonable. So I would say as far as that is concerned, that must be up to the will of the House and the hon. mover, because I believe that it is important that members express and put inputs and amendments forward, even if you do not always agree with them. That makes for healthy debating and it makes for a healthy House as far as I am concerned.

I would hope that the hon. House would support the clause as it stands and wait to see what happens at the third reading stage as far as the hon. member for Rushen, Mr. Cringle's amendment is concerned.

I beg to move that Clause 2 stand part of the Bill.

**The Speaker:** Right, the motion before the House is that Clause 2 stands part of the Bill. Will all those in favour please say aye; to the contrary say no.

*A division was called for and voting resulted as follows:*

For: Messrs. Gilbey, Cannan, Quine, Dr. Mann, Messrs. North, Walker, Corrin, Cringle, Brown, May, Corlett, Cretney, Duggan, Mrs. Hannan, Messrs. Bell, Groves, Karran, Corkill, Waft, Gelling and the Speaker - 21

Against: Messrs. Delaney, Kermode and Downie - 3

**The Speaker:** Hon. members, the motion carries, with 21 votes being cast in favour and 3 against. We now move on to Clause 3 and I call upon the member for Onchan.

**Mr. Karran:** *Vainstyr Loayreyder*, this clause enables the Authority to serve a prohibition notice in the case of risk of fire or a restraining order for the use of the premises where there is a serious risk to persons in the case of fire, subject to appeal to the court. The clause retains the involvement of the court, but now they have to appeal against the action of the Fire Authority instead of having to go to the court to take action. I beg to move.

**Mr. Walker:** I beg to second, Mr. Speaker.

**The Speaker:** Does any hon. member wish to speak to the adoption of this clause? If not, the motion before the House is that Clause 3 stand part of the Bill. Will all those in favour please say aye; to the contrary say no. The ayes have it. The ayes have it. Clause 4.

**Mr. Karran:** *Vainstyr Loayreyder*, this clause makes new provisions for the apportionment between landlords and

tenants of expenses in connection with fire precautions. This clause replaces those subsections with a new section applying to any premises and covers also the expense of complying with improvement notices, prohibition notices, which I feel will be a much fairer way forward as far as all are concerned for fire precautions. I beg to move.

**Mr. Walker:** I beg to second, Mr. Speaker.

**The Speaker:** Thank you. The member for East Douglas.

**Mr. Delaney:** Could I ask the member dealing with this? Here we have a situation where the general part of the clause deals with apportionment. I would have thought traditionally where the owner of the property has a contract agreement with a tenant or even a subtenant that that proportion of amount of rent paid or charges levied takes into account, Mr. Speaker, those parts of responsibilities and areas of expense of the landlord. Could the member explain to this hon. House how it is going to go about - like let us take the whole of Strand Street which is all owned, most of it, by absent landlords - where we come to should the department concerned wish to have a blitz on that area, for example, of when they come to apportionment on these already heavy rented, heavy costs, which we all see from the empty shops down there at this moment in time? Also would he explain on tenants of properties such as residential properties, how does he go on then and what thought has been given to how this is apportioned to transient tenants of properties? How is this going to be levied and how will it agree and what sort of agreement and how will they reach such an agreement with tenants in residential properties who already are paying such high rents? Are we going to find the landlord now when this is put through, that they will then come back to the tenants and say, 'Ah well, I have to do extra fire precautions, extra fire services are required: I now must levy you with an extra charge.' Would the member explain to this House how this is going to operate?

**Mr. Kermode:** Yes, Mr. Speaker, I have got to agree with my colleague because there is a danger here that we could end up having more hotels on Douglas Promenade closed down as a result of this legislation, because if that landlord who should be apportioned the cost of the fire precautions has a tenant's agreement, if it turns out that the landlord who owns the building refuses to carry out those fire precautions it means that the tenant will not be able to get back the costs in any way, shape or form from that landlord and therefore that hotel will have to close down because of lack of fire precautions, and none of us want that. So I hope the hon. member, when this legislation goes through, if it goes through, will take all of this on board within his own department when this comes before his department, otherwise we are going to have a ghost town. We will have all kinds of properties falling into disrepair in Douglas as a result of these very actions.

**The Speaker:** Does any other hon. member wish to speak? Reply, sir?

**Mr. Karran:** *Vainstyr Loayreyder*, the situation would be that the apportionment would be decided by a court of summary jurisdiction. This is something which would have to be fought through the court system. Obviously that would come down. There are great dangers as far as making sure that that person has the finance to be able to fight the case, and I have great sympathy. But the point is that I think the

other hon. member has missed the whole purpose of this piece of legislation, and one of the fundamental reasons why we have done this is so that there is that ability so that a landlord can be apportioned the cost. At the present time there are clauses in the original Act, but they have never been made law because they just simply would not work. So I would hope that the hon. members in East Douglas would support this clause because the situation is that this clause actually helps to make it much more fair.

The very valid point that the hon. member for East Douglas, Mr. Delaney, raised about absentee landlords is a very worrying situation, but the problem is that that is not unique to this clause being supported today; that is a problem that many sections of the community have problems with. We have seen in your own local authority that you have had big problems with dilapidated property and that they have had a number of problems trying to get orders on absentee landlords. It will be a problem, but I think it would be quite wrong of the hon. members to vote against this clause, because this clause actually strengthens the backing so that if tenants are in there doing a good job and they are forced to do fire precautions, the landlord will have a legal liability under this clause and it will be up to the court of summary jurisdiction in order to ascertain who should get the costs as far as it is concerned and they will apportion the costs.

I beg to move that Clause 4 stand part of the Bill.

**The Speaker:** The motion, hon. members, is that Clause 4 stand part of the Bill. Will all those in favour please say aye; to the contrary say no. The ayes have it. The ayes have it. We now move on the Clause 5 and Clause 5 incorporates Schedule 2 which is set out on pages 12 and 13 of the Bill. I call upon the member for Onchan.

**Mr. Karran:** *Vainstyr Loayreyder*, this Clause 5 introduces Schedule 2 which makes minor amendments to the 1975 Act, mainly following amendments made in the United Kingdom by the 1987 Act which has the following: prohibits against disclosure of information obtained in the course of inspecting premises; it creates references in building byelaws, local authority in the 1975 Act to take account of the Building Control Act 1991 and such minor amendments as follows. I beg to move that this clause stand part of the Bill.

**Mr. Walker:** I beg to second, Mr. Speaker.

**The Speaker:** Thank you, hon. member. Does any member wish to speak? If not, I will put the motion that Clause 5, with which is incorporated Schedule 2, stand part of the Bill. Will all those in favour please say aye; to the contrary say no. The ayes have it. The ayes have it. We now move on to Clause 6 with which is incorporated Schedule 3. The member for Onchan.

**Mr. Karran:** *Vainstyr Loayreyder*, Clause 6. This clause contains supplementary provisions.

Sub-clause (1) gives the power of its short title. Sub-clause (2) provides the Bill to come into force on a day to be fixed by the Department of Home Affairs. Sub-clause (3) introduces Schedule 3 which contains consequential repeals. Sub-clause (4) defines the terms of the 1975 Act which is used throughout the Bill.

I beg to move that Clause 6 stand part of the Bill.

**Mr. Walker:** I beg to second, Mr. Speaker.

**Mr. Delaney:** Mr. Speaker, I make it clear that Clause 2 was the part that I was particularly concerned with, but I will say this, that the Bill now has virtually passed through the House. The situation, as I see it, is on this Appointed Day Order I believe and I would require and I would actually beg of the Chief Minister and his Cabinet if they would consider very closely, bearing in mind what other members of this hon. House have said about the Appointed Day Order on this Act. It might go a long way to the hon. member for Rushen's problem, this thing about laying an order. Should this Bill go through, I believe they should be very careful in when they place this Bill to be worked on the statute book. I believe it will have a detrimental effect, under Clause 2, on the small economy of the Isle of Man, and, Mr. Speaker, I believe you tread very warily when you give such powers as we are giving in Clause 2 to this small Authority.

**The Speaker:** Does any other member wish to speak? Do you wish to reply, sir?

**Mr. Karran:** *Vainstyr Loayreyder*, I would just like to say that I take on board the hon. member's concerns as far as the fees and the Appointed Day Order are concerned, and I will pass it on to the department as far as that is concerned. As I said before, I think most of us in this hon. House are very concerned about this ailing industry, but the last thing that we would want is a situation of a repeat of history which took the original 1975 Bill which was the Summerland disaster.

So I do take on board the concerns as far as fees are concerned. I understand that the tourist industry is depressed at the present time, and I would take that back to the hon. minister and make sure that before it comes maybe we could inform members of the hon. House. I beg to move.

**The Speaker:** Hon. members, the motion before the House is that Clause 6, with which is incorporated Schedule 3, stand part of the Bill. Will all those in favour please say aye; to the contrary say no. The ayes have it. The ayes have it. Hon. members, that completes the clauses stage of this Bill.

#### SEXUAL OFFENCES BILL — CONSIDERATION OF CLAUSES COMMENCED

**The Speaker:** We now move on to item 3 on the Agenda, consideration of the clauses stage of the Sexual Offences Bill, and this is in the hands of the hon. member for Castletown and I am going to suggest that we deal with Sections 1 to 3 to begin with.

**Mr. Brown:** Thank you, Mr. Speaker. The first of the Bill, Clauses 1 to 3 inclusive, deals with sexual acts by force.

Clause 1 defines rape and makes it an offence. It also extends the present offence of rape to cover homosexuals as well as heterosexuals. It also makes it clear that a husband can be guilty of raping his wife and the legal presumption that a boy under 14 is incapable of rape is also abolished.

Clause 2 makes it an offence to procure a person to commit a sexual act either by threats, intimidation, by false pretences or false representations. It extends the maximum term of imprisonment from two years to seven years.

Clause 3 makes it an offence to drug a person so as to induce him or her to commit a sexual act and extends the maximum term of imprisonment from the present two years

to seven years.

I beg to move that Clauses 1 to 3 inclusive stand part of the Bill.

**Mr. Corrin:** I beg to second, Mr. Speaker.

**The Speaker:** Does any member wish to speak to Clauses 1 to 3? If not, I will put the motion that Clauses 1 to 3 stand part of the Bill. Will all those in favour please say; to the contrary say no. The ayes have it. The ayes have it. Clauses 4, 5 and 6.

**Mr. Brown:** Thank you, Mr. Speaker. The second part of the Bill, Clauses 4 to 6 inclusive, deals with sexual acts with young persons.

Clause 4 creates offences of committing a sexual act with a child under 13 years of age and any person who commits such an offence shall be guilty of an offence and liable on conviction to life imprisonment. Where a sexual act is committed with a child under 16 years of age, unless a person can prove that they did not know and had no reason to suspect that the person was under 16 years of age, then they will be guilty of an offence and liable on conviction on information to a term of imprisonment not exceeding seven years. This is increased from the present maximum of two years. These offences are extended to cover male as well as female victims and cover homosexual as well as heterosexual sex.

Clause 5 makes it an offence to commit a sexual act with a person who is subnormal, although it will be a defence if anyone accused did not know and had no reason to suspect that the victim was subnormal as defined in the Mental Health Act 1974. The maximum offence is extended from two years' imprisonment to seven years.

Clause 6 makes it an offence for certain persons, such as officers of a hospital or mental nursing home, who are in a position of trust to commit a sexual act with a mental patient. Again the maximum term of imprisonment is increased from two years to seven years, although again there is provision to make it an offence if a person does not know and had no reason to suspect that the other person was mentally disordered.

Mr. Speaker, I beg to move that Clauses 4 to 6 inclusive stand part of the Bill.

**Mr. Corrin:** I beg to second and reserve my remarks, Mr. Speaker.

**The Speaker:** Thank you, hon. member. Does any hon. member wish to speak? The member for Onchan, Mr. Karran.

**Mr. Karran:** Can I just ask the hon. member on Clause 6? If the management does any covering up as far as any employees' misdemeanours, is there anything within the present legislation where they can be affected as far as having their licence withdrawn or whatever for allowing such actions to carry on and for covering them up?

**Mr. Corrin:** Mr. Speaker, Could I just for the record request that the hon. mover explain Clause 4(1) and the reference to imprisonment for life? Now, obviously on the face of it that means exactly what it says, but in fact in administration of the law it can mean any punishment up to that and not to be read that if one was found guilty that is in fact the punishment. Would he concur with that view?

**The Speaker:** Does any other hon. member wish to speak? Reply, sir?

**Mr. Brown:** Yes, thank you, Mr. Speaker. With regards to the point raised by the hon. member for Onchan, Mr. Karran, if management knowingly cover up such a case, then they will of course be guilty of an offence and would be aiding and abetting, and I am sure that they would be dealt with satisfactorily by the courts. So in fact it does not matter if they try to cover it up: they would be committing an offence.

With regards to life imprisonment, a life sentence, I would have thought, is quite clear to hon. members, whether it be life for murder or life for this sort of offence. It is a matter for the Deemster to judge how long that sentence shall be and that person then, as I understand, is out on a licence as a life sentence.

**The Speaker:** Hon. members, the motion before the House is that Clauses 4, 5 and 6 stand part of the Bill. Will all those in favour please say aye; to the contrary say no. The ayes have it. The ayes have it. Clauses 7 and 8.

**Mr. Brown:** Yes, Mr. Speaker, the third part of the Bill, Clauses 7 and 8, deals with incest.

Clause 7 makes incest an offence and it is extended to cover homosexual as well as heterosexual sex. There are new provisions to safeguard, for example, step-children and adopted children. Therefore Clause 7 makes it an offence for a person aged 16 years and over to commit a sexual act with a person he knows to be his child, grandchild, brother, sister, parent or grandparent. They shall be guilty of an offence and liable on conviction on information, where a child is under the age of 13 years, to life imprisonment and in all other cases to imprisonment for a term not exceeding 10 years.

Clause 8 provides an offence for anyone to incite a person under the age of 16 years to commit a sexual act which if he was over 16 years would be an offence under Clause 7 of the Bill, and the maximum term of imprisonment of seven years is provided.

I beg to move that Clauses 7 and 8 stand part of the Bill.

**Mr. Corrin:** I beg to second, Mr. Speaker.

**The Speaker:** Thank you, hon. member. Does any member of the House wish to speak to Clause 7 and 8? If not, I will put the motion that Clauses 7 and 8 stand part of the Bill. Will all those in favour please say aye; to the contrary say no. The ayes have it. The ayes have it.

Now, hon. members, before I call upon the member for Rushen, Mr. Walker, to move the new clause which I understand has been circulated in his name, I would wish to advise the House of a particular situation.

Hon. members will be aware that Section 6 of the Isle of Man Constitution Act 1961, which is incorporated in Standing Orders as Standing Order 105, requires the Chair to exercise a casting vote where there is an equality of votes on a division. Before calling on the hon. member for Rushen, Mr. Walker, to move that the new clause tabled in his name be accepted in principle, I believe it would be an appropriate time, and helpful to the House for me to make a statement on the exercise of the casting vote of the Speaker in the event of an equality of votes on a division. Although my personal position on the matter which the House is now to be asked to consider is well known, I make this statement as Speaker of the House in order to assist the

House and it is not intended to influence the deliberations of the House.

Should there be an equality of votes on a division that the new clause be accepted in principle, I will adopt the ruling of Mr. Speaker Addington of the Westminster House of Commons in 1796 that the Speaker should, where it is possible to do so, always vote for further discussion. Consequently, in the event of an equality of votes on a division that the new clause be accepted in principle, I would exercise my casting vote in favour of the 'ayes' to enable the House to further consider the new clause.

Hon. members will be aware that under Standing Order 154, should the new clause be approved in principle, it may be amended and when questions on any amendments have been resolved it is the duty of Mr. Speaker to put to the House the motion that the new clause as amended stand part of the Bill. If we reach that stage and there is an equality of votes on the motion that the new clause or indeed the new clause as amended stand part of the Bill, I will adopt the ruling of Mr. Speaker Dennison of the Westminster House of Commons in 1860. On that occasion Mr. Speaker Dennison concluded that a casting vote on an amendment to a Bill should be exercised to leave the Bill in its existing form because it would be inappropriate to exercise a casting vote in favour of an amendment where the House is unable to form a clear judgement on the propriety of such an amendment. Consequently, if we reach the position that there is an equality of votes on the motion that the new clause or the new clause as amended stand part of the Bill, I shall exercise my casting vote in favour of the 'noes'.

In short, hon. members, in the event of an equality of votes on the acceptance of a new clause in principle, I shall exercise the casting vote of the Chair in favour of continued deliberation, but if there is an equality of votes on the motion that the new clause or the new clause as amended stand part of the Bill, I shall exercise the casting vote of the Chair against the motion.

Now, could I call upon the hon. member for Rushen, Mr. Walker, to move - (*Interruption*) Yes, I am sorry. Would you like to move Clauses 9 and 10.

**Mr. Brown:** Thank you, Mr. Speaker. The fourth part of the Bill, Clauses 9 and 10, covers unnatural offences. Clause 9 makes it an offence to assault another person with the intent to commit buggery, with a maximum term of imprisonment of 10 years.

Clause 10 makes it an offence to commit a sexual act with an animal and there is a maximum term of imprisonment for such an offence of seven years.

I beg to move that Clauses 9 and 10 stand part of the Bill.

**Mr. Corrin:** I beg to second, Mr. Speaker, and reserve my remarks.

**The Speaker:** Thank you. Now, before we proceed any further I am now certainly going to call upon the member for Rushen, Mr. Walker, to perhaps move the first... I am sorry, hon. members, if you would just allow me one moment. The motion before the House at the present time is that Clauses 9 and 10 stand part of the Bill. Does any hon. member wish to speak to the adoption of those clauses? If not, I will put the motion that Clauses 9 and 10 stand part of the Bill. Will all those in favour please say aye; to the contrary say no. The ayes have it. The ayes have it. I will now call upon the hon. member for Rushen to move perhaps the first of the two new clauses which stand in his name.

**Mr. Walker:** Thank you, Mr. Speaker, and can I thank you for giving us your ruling on the casting vote, I think an issue which has been exercising many of our minds over the last few days.

Mr. Speaker, if it is acceptable to yourself and the House I would like to speak on the principle of the two new clauses because the second of the two new clauses is in fact dependent on the first. So if it is acceptable to you, sir, I would like to propose in principle that the two clauses that I am proposing stand part of the Bill and then we will go on to moving the two clauses in detail one after the other, sir.

Mr. Speaker, the amendments that I will be proposing to the Bill are the inclusion of two new clauses and they are concerned only with the decriminalising of homosexual acts between consenting adults in private. I do believe that any discussion of legalising homosexual intercourse between consenting adults in private must begin with the European Convention on Human Rights. The Convention was ratified by the United Kingdom in February of 1951. It was extended to the Isle of Man, with the Island's consent, in October of 1953. We have been party to and have been bound by the Convention for almost 40 years. I would hope that as individual members of Tynwald and as a community we would all subscribe to the idea that human rights should be protected and that the citizens of this Island should have all the rights and all the freedoms to be found in other modern European countries.

Article 8 of the Convention provides that everyone has the right to respect for his or her private life. The Convention is interpreted by the European Court of Human Rights and the court has, in giving judgment in two separate quite recent cases, one in relation to Ireland and one in relation to Northern Ireland, interpreted that article to mean that legislation, which is similar to the Island's existing law, constitutes interference with the individual's right to respect for his private life. The issue is not whether or not a person has a right to be a homosexual. It is to do with respect for an individual's private life. In other words the state is not permitted to have a law which makes sexual acts in private between consenting adults illegal, and it does not matter whether we are talking about heterosexuals or homosexuals.

Our existing law in this respect is therefore at odds with the European Convention on Human Rights, and there is no room for doubt on that point. Let no-one try to persuade you, hon. members, that it is possible to construct a viable argument that our laws can be justified based on health grounds. Our legal advice is that no such case could be sustained before the European Court. Similar advice was given to Jersey by its legal advisers, similar advice has been given to the Home Office by their legal advisers, and there is no prospect of the Home Office contesting an action before the European Court on our behalf trying to use that argument.

Our position in relation to the European Convention on Human Rights is therefore crystal-clear: we are bound by the Convention and our laws are at odds with the Convention. There is no sustainable argument by which we could defend our existing law before the European Court of Human Rights and the law will be changed.

Not only are we bound, but the United Kingdom is bound also. We do not sign international agreements in our own right. The UK does that on our behalf and it is their responsibility internationally to ensure that we meet our treaty and Convention obligations. If the matter of our law came before the European Court it is the UK who would be the defendant and it is the United Kingdom who would

be found wanting and who would be criticised. The United Kingdom is not prepared to subject itself to that. They have the ultimate constitutional authority to legislate on our behalf and they have made it clear that if necessary they will do just that. They will do it reluctantly and very much as a last resort, but if we give them no choice, they at least will have a sufficient sense of responsibility to discharge their own international obligations.

Mr. Speaker, hon. members should let no-one try to persuade them that the United Kingdom will not legislate for us if that becomes necessary. We have been told at official level that they will act, we have been told at ministerial level that they will act, we have been told at the level of the Secretary of State that they will act. A clear statement which has now been frequently repeated right up to Cabinet level will not be reversed, nor will the forthcoming United Kingdom election offer any false hopes, because the Labour and the Liberal Parties are more likely than the present United Kingdom Government to take a firm line with us on this particular issue. We can in fact expect there to be a cross-party consensus at Westminster on this matter.

Hon. members should also not let anyone try to persuade them that in the wake of the election the UK Parliament will be too busy with other things to worry about a small issue like the Isle of Man's stance on homosexual law. A clause or two added to a Bill going through Parliament is all that it would take - almost, Mr. Speaker, the stroke of a pen. No doubt the House of Commons will have bigger issues to deal with, but we can be confident that the Whitehall machine will ensure that the steady flow of routine and small items necessarily discharged by Government will continue and that our anomaly in relation to the Convention on Human Rights will be tidied up almost without a second thought.

No-one should try and persuade us that we could fight the United Kingdom on this issue. Not only do they have the strength and all the necessary powers, but they also have right on their side. They unquestionably have the authority to legislate for us, although by convention they do not do so on domestic issues. They have an international obligation to discharge. We are the ones in the wrong and we have no means of preventing them putting the situation right.

Some members may object loud and long, but that will be ineffective and, I would suggest, quite inappropriate. On this issue, hon. members, we have become isolated in Europe. Northern Ireland has changed its law since it was brought before the Court of Human Rights. Ireland has given an undertaking to change its law. Jersey and Guernsey were in the same position as the Isle of Man and both have recognised their position was untenable: both have changed their laws. They had the same questions in mind, the same reservations, the same distaste of homosexuality. But in the final analysis they concluded that the interests of their islands lay in changing their laws and in changing the law themselves, not allowing the UK to do it for them. The only other territory with a law similar to ours is, I think, Gibraltar, and they have drafted a Bill which will allow them to come within the Convention, but that has not yet been addressed by the island's parliament.

Some have suggested that there is merit in the Island going its own way and trying to remain different. It is suggested that we could get credit outside the Island by adhering to what are described as traditional values and by resisting a change in the law. I have no doubt that such a stand would have a certain degree of popular appeal, no doubt about that at all, in the minds of some people, and I am sure that a few letters of support would arrive from individuals and

organisations in the UK and elsewhere. However, such support would count for nothing in the broader sweep of modern international thinking, count for nothing. Influential opinion will see such a stance not as heroic but as an oddity, an outdated, reactionary attitude, out of touch with reality and unbecoming a community which aspires to nationhood and which is increasingly dependent upon international business.

One by-product of not having our law in conformity with the Convention is that we deny our citizens the right of individual petition to the European Court of Human Rights, and that should be a source of shame to us. We deny that right of petition simply because if we allowed such petitions, there would be an immediate petition regarding our laws on homosexuality which we could not successfully defend. To deny the right of petition for such a shabby reason is not a stance in which we should take much pride. One great advantage of changing our law is that it would pave the way for us to grant to our people the right of individual petition to the European Court of Human Rights. How can we claim to be a responsible modern government and how can we demonstrate to the countries of the world our commitment to human rights when this right is presently denied to our people, the people in our community?

It is perhaps worth noting that amending our law to permit sexual relations between consenting adult homosexuals in private would change very little in practical terms. It must be many, many years since anyone was prosecuted for this offence. We cannot realistically investigate private adult homosexual activity. It would be absurd and unacceptable to suppose the police would enter private houses to establish whether sexual relations were in progress. To change our laws, therefore, I would put to this hon. House, would have no consequences in terms of police practices or in prosecutions.

Gross or particularly offensive aspects of homosexuality would remain criminal. For example, there is no suggestion of decriminalising any homosexual act which involves children or anyone under the age of 21 years, or making legal any homosexual act which involves coercion, or any such act which was committed in public. The offence of gross indecency, which has been the subject of investigations and charges recently, would remain an offence. There is no reason to believe that a change in our law would lead to increased overt homosexuality in public places. Indeed the experience of Guernsey, which changed its laws some time ago, lent support to the view that there would be no observable change in behaviour.

Mr. Speaker, I have not sought to discuss homosexuality in moral terms. We could spend a long time arguing whether homosexuality is wrong or not and whether we are offended by it or not, but that really is not the issue that is before us. The Lord Bishop in another place has argued that homosexuality is a sin but that there are a lot of sins which are not crimes and homosexuality should not be a crime. That is an approach which I personally can identify with and I think it will strike a chord which many members. But that is not the central issue either. We could debate at length whether the people of the Island want homosexuality in private to continue to be a crime, and some members may well seek to argue that they have some special knowledge about the wishes of the people. I do not believe it is possible for any of us to say with certainty whether the public as a whole want the law changed or not.

**Mr. Kermodé:** You should have had a referendum.

**Mr. Walker:** I suspect the one thing that the people want is to see the question resolved so that we can get on with other matters. (Members: Hear, hear.) But even the question of whether the people of the Island want the law changed or not I am afraid is not the central issue. The central issue before us is not the moral question of attitude, it is not whether the people want to see the law changed: the law will be changed. The issue before us is plain and stark and it is simple: it is whether we change the law or the United Kingdom changes it for us. I do believe the other issues are secondary.

Let me just focus for a moment on that central issue and set out the reasons why I consider it to be important that we amend the law rather than leave it to the United Kingdom.

Firstly, we have the constitutional objective. Since 1981 we have been formally committed by a resolution of Tynwald to the pursuit of a greater autonomy and progress towards more self-government. In 1981 a Select Committee on the Governor's Powers and Duties reported and recommended a policy in relation to constitutional development which we continued to endorse and which is repeated in our Policy Report each year. One of the recommendations of that Select Committee reads, 'Where possible, all legislation affecting the Isle of Man, whether with internal or external implications, should be enacted by Tynwald.' To consider therefore handing back to Westminster an area of legislation which is concerned with internal affairs goes against the very nature of our constitutional objective and the approved recommendations of the Select Committee.

The second reason why, in my view, it should be Tynwald rather than Westminster who amends our law is precedent. The constitutional convention is that we legislate for ourselves in domestic affairs. This convention is of long standing and the UK has not in recent history passed any Act relating to the Island's internal affairs against the wishes of Tynwald. To do so now would break that convention. A precedent would be established which might - only might - then be used for more seriously detrimental issues by a hostile UK Government, or by a hostile House of Commons acting on a private member's initiative. There are members of Parliament who would relish the opportunity of legislating for the Isle of Man in a variety of areas. It would be folly to give them a vehicle and an example to follow.

It is this argument which causes concern to our business community. The Island depends for its economic prosperity upon maintaining a set of differences, particularly in fiscal and commercial matters between itself and the UK, otherwise we effectively become part of the UK. The Island's independence allows us to continue those differences and protect those differences. If they are eroded or even if it is seen that the differences can easily be eroded there could be a resulting loss of confidence and we could lose a competitive advantage to other jurisdictions which are not subject to the threats of changes in law being imposed upon them. There is therefore a hard practical commercial reason why we should take the initiative ourselves. The Channel Islands have certainly recognised this and have avoided the danger of allowing Westminster to legislate.

The third reason why we should legislate is also a practical one and it concerns control. If we change our laws we can frame them to suit our own wishes. We must comply with the European Convention on Human Rights, but we need go no further than that. Once passed, the legislation remains under our control: we can defend it, we can amend it, ultimately we can replace it - it is ours, we own it, we are

in control. The legislation that Westminster would pass might be different to what we would enact ourselves: it may well go further than we would like. Moreover it would be subject to United Kingdom amendment, again over which we have no control, and we have no way of getting that control back. On the assumption that we would legislate in the minimum way to comply with the Convention, any departure from this by the UK Government would mean going beyond what the Convention requires. I cannot believe that the Manx people would thank us for handing this law-making ability to the UK and then seeing the UK introducing measures which went beyond what was strictly necessary.

We all experienced the what I would term appalling demonstration at Tynwald last July. I cannot believe those demonstrations were designed to persuade us to change our law. On the contrary, it is my belief that the demonstrations were to persuade us not to change our law, and I think there is a danger of us falling into that trap. If we do not change our law the UK will act for us and their more liberal interpretation of the law would be more likely to prevail, and I have to say, Mr. Speaker, that is not for me.

It is perhaps worth stressing that we have been advised to change our law by our own legal advisers. We have also been urged by our Chief Officers' Group to change our law, and it is in fact quite unprecedented for the chief officers to make such a recommendation to us on an issue which is policy rather than management or administration. It must say something about the concerns they have for the damage we may do to the Island if we get this one wrong. We have also been advised to change our law by the Anglo-Manx Parliamentary Group, a cross-party organisation of Members of Parliament who are particular friends in Westminster. Their advice from their position within the House of Commons should carry particular weight.

What will be said in arguing that we should not change our law is that we must hold on to the moral high ground. Let me say there is no moral high ground in being in breach of the European Convention on Human Rights. There is no moral high ground in denying our people the right of individual petition to the European Court of Human Rights and there is no moral high ground in abdicating our responsibilities and failing to meet our international obligations. We are not standing on the moral high ground, Mr. Speaker. On the contrary, it is the rest of Europe which is standing on the high ground looking down at us and urging us to climb up and join them. We should be taking this opportunity.

The Sexual Offences Bill was debated at length last year in the House of Keys and many of the members who will debate it this time round were involved in last year's debate. To those who voted to keep the law as it is let me say that there is now a further chance to think again and there are good reasons why you should do so. I have tried to set out the case as I see it, but there have been developments since the Bill was last before the House which we should note. First there was the House of Keys general election last November. The results of that election are, no doubt, open to a number of interpretations, but what can be said with certainty is that those members who supported change last time round did not suffer at the ballot-box. There was a feeling last year that the public were vigorously and by a large majority opposed to any change in the law. The election showed that that was not the case. Those of you who supported the *status quo* last time because of the concern that the Manx people would react against change should recognise that that concern was unfounded.

**Mr. Kermode:** And we were elected as well.

**Mr. Walker:** Also since the last debate we have seen the issue of lowering the age of consent for homosexual intercourse from 21 to 16 becoming prominent in the United Kingdom. The Liberal Democrats have stated clearly in their manifesto they are in favour of lowering the age of consent, and that may carry significant influence after the election. The Labour Party has declared it will allow a free vote and the Conservative Party seems to be indicating the same. Lowering the age of homosexual consent is therefore very much on the UK political agenda.

Earlier in my address I spoke of the dangers of losing control of the legislation if we allowed Westminster to act for us. That was making the point theoretically. But now we can see clearly the practical dangers of legislation, if legislation is introduced into the House of Commons after the election, decriminalising homosexual intercourse in private in the Isle of Man. It will be introduced into a House where lowering the age of consent from 21 to 16 is an issue for debate and even if a Bill promoted by the Home Office included an age of consent at 21, any member of the House of Commons could propose amendments. The risks are obvious and those members who last time were content to let the UK legislate for us should reflect on whether the Island's best interests would be served by such an event.

Mr. Speaker, I have sought to explain in some detail why I am introducing amendments to the Bill. The amendments seek to decriminalise homosexual relations between consenting adults in private. I do hope that members will feel able to support those amendments.

The ministers have a free vote on this issue because I know there is a feeling that this is an overriding moral question. I cannot expect members to vote contrary to their conscience, but I will make a plea to members. If your objection to changing the law is because you are offended by homosexuality, if your objection is just that a change will be contrary to the wishes of the electorate, or if your objection is based simply on the tactic of adopting an opposition stance for the sake of it, please, hon. members, think again. Ask yourself whether the interests of this Island, our Island, would not be better served by the House of Keys accepting its responsibilities and changing the law. (**Members:** Hear, hear.) We have one last opportunity to get it right, one last opportunity by our action to comply with the European Convention on Human Rights and to give our people the right of individual petition. Mr. Speaker, I hope that we are mature enough and realistic enough to accept that challenge, and in doing so I beg to move that the principle established in the two clauses that have been circulated in my name be agreed:

#### Unnatural offences

- (1) A person who commits buggery with another person -
  - (a) where either he or the person is under the age of 21, or
  - (b) elsewhere than in private,

shall be guilty on an offence.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction on information -

(a) if with a person under the age of 16 and so charged in the information, to imprisonment for life;

(b) otherwise, to imprisonment for a term not exceeding 7 years.

(3) A person who procures another person to commit with a third person an act of buggery which is not an offence under subsection (1) shall be guilty of an offence and liable on conviction on information to imprisonment for a term not exceeding 4 years.

(4) A man who commits an act of gross indecency with another man -

(a) where either he or the other man is under the age of 21, or

(b) elsewhere than in private,

shall be guilty of an offence and liable on conviction on information to imprisonment for a term not exceeding 4 years.

#### Provisions supplemental to s.(Unnatural offences)

(1) For the purposes of section (Unnatural offences)(1) and (4), an act shall not be treated as done in private if it is done -

(a) where more than 2 persons are present, or

(b) in any place to which the public have or are permitted to have access, whether on payment or otherwise.

(2) Nothing in section (Unnatural offences) (1) or (4) prevents an act being an offence (other than a civil offence) under any provision of the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957 (Acts of Parliament).

(3) In its application to an act committed on a Manx merchant ship by a man who is a member of the crew of that ship with a man who is a member of the crew of that ship or of another Manx merchant ship, section (Unnatural offences)(1) and (4) shall have effect with the omission of paragraphs (a) and (b).

(4) In subsection (3) -

“member of the crew”, in relation to a ship, includes the master of the ship and any apprentice to the sea service serving in the ship;

“Manx merchant ship” means a ship registered in the Island and habitually used at the time of the act charged for the purposes of carrying passengers or goods for reward.

(5) Subject to subsection (6), the following provisions shall cease to have effect on the expiration of 3 years beginning with the passing of this Act -

(a) in section (Unnatural offences)(1) and (4), paragraphs (a) and (b);

- (b) section (Unnatural offences)(3); and
- (c) this section.

(6) The Governor in Council may by order repeal subsection (5), but such an order shall not have effect unless it is approved by Tynwald before the expiration of the period specified in that subsection.

Thank you, Mr. Speaker.

**Mr. North:** I beg to second, Mr. Speaker, and I would like to concur with the remarks of the Chief Minister. I do not intend to go over the speeches I have made previously. I congratulate him on the speech, and I hope that members will consider every word he has said.

**The Speaker:** Now, before I invite hon. members to contribute to the approval or otherwise of the new clauses in principle, I just want to reiterate what has already been said by the Chief Minister and that is that he is seeking approval to both clauses that are printed on pages 1 and 2 of the amendment sheet that has been circulated in his name. Right, which hon. member would like to speak? The member for Ayre.

**Mr. Quine:** Thank you, Mr. Speaker. The real message from the Chief Minister is that we should cast aside the morality of the issue and legislate on the basis of expediency. That is the message which has come across loud and clear, that we should capitulate, that we should do as we are told and not worry about whether it is right or whether it is wrong, that we should succumb to the process which we have been subjected to, a process of attrition. We have had people brought into the act to make the members of this hon. House bow their heads and go along with the will of people on the other island, knowing that it is not the will of the people on this Island.

I would start by asking members not to allow themselves to be railroaded and not to allow themselves to succumb to the bombardment that has been fired at us, the sabre-rattling and the threats which have been made towards us. I would like to think that we are made of sterner stuff than that.

Unlike the Chief Minister, I shall certainly speak to the moral issue, because in my view if something is morally wrong you do not legislate and put it on our statute books. It is as simple as that. It would be hypocritical, to say the least, if we honestly believe that something is morally wrong and we put it onto our statute books.

So let me start by covering a couple of what I would call preliminary points. First of all, we are not discussing homosexuality. We are discussing the proposed decriminalisation of buggery. You cannot avoid it. None of us likes to use the term or think of what it entails, but that is what we are speaking of. We are not speaking of homosexuality *per se*. What this legislation involves is legalising buggery: rectal intercourse. That is what we are talking about, and that is quite a different matter from how one should look upon and how one should treat people of homosexual persuasion, quite a different matter.

I would submit that homosexuals on this Island have been allowed to conduct their relationships in private, they have not been hounded or harried, and you cannot say that for what has happened to them in the United Kingdom, given the 'blessing' - and I apologise for using that word because it should not be used in this context - of statutory rights. They are certainly hounded and harried over there - their

high profile has done them no good at all. The product of change over there has been to condemn them, not to help them.

A further preliminary that I should make is of course that this is not an on-Island issue, this is an off-Island issue. It is one that has been drummed up, by and large, by pressure groups off the Island. What we do on this Island does not really concern them, they are not concerned about what happens on this Island. They are concerned about the fact that we as a small country are making a stand on principle, that we are getting in the way of this huge juggernaut that is pushing forward to claim all sorts of so-called rights for homosexuals. We are getting in the way of giving a legal foundation to a sub-culture that they are committed to develop. That is why they are pointing their guns at us. They do not have the interests of our Islanders at heart, not at all, not in the least. They import people simply to drum up that issue. Unfortunately it has had an undesirable consequence because as a result of these activities from across the water we have seen influential people on this Island dancing to their tune. We have seen, sir, people in the United Kingdom pulling strings on their behalf to make us acquiesce. I find that highly objectionable.

Turning to the substantive arguments which have been put forward, if I may now address some of those, it is my contention and it is the conclusion of the Select Committee that sat to discuss this matter, having called medical evidence, that when we are talking of homosexual activity we are talking of a learned behaviour, an acquired behaviour. It is in the Select Committee report for you to see and the medical evidence is appended thereto. Look to that report: the evidence is there. It says quite clearly that homosexual inclinations are not founded on genetic factors and neither are uncontrollable psychological urges any different from those experienced by heterosexuals. So do not look for excuses when we start to consider this issue. Do not think that we have a group of people who cannot help themselves and therefore we should accede to their request. There is no excuse for it, no more excuse for amending our law to accommodate their inclinations than there is to amend our law and excuse the conduct of kleptomaniacs, no more reason.

Perhaps a more pertinent and important consideration is my conviction that the partial decriminalisation would be exceedingly harmful to our community, to our society. It has been elsewhere and it would be here. It would bestow on the act of buggery legal recognition, it would acclaim it as a right. It would give it an acceptance, it would make it, in the eyes of many people, a normal activity. It would unquestionably motivate greater activity, more open activity and more indiscriminate activity, and contrary to what the Chief Minister has said, that is what has happened in the United Kingdom since 1967, since they passed their law. That is what has happened, and there is abundant evidence that that is the case. We have not abandoned public parks on this Island to homosexual fraternities. We do not have all the outward trappings of such activities on our streets, and we do not want them in our parks and in our streets. (**Mr. Brown:** Hear, hear.)

You will certainly not legalise this matter and confine it to behind closed doors. That is not the UK experience. From the point that they legalised it, it has gone onto the streets. Again, look to the facts in the Select Committee report, look to the crime figures for England and Wales; they are quoted in that report. If you take the five years immediately following the decriminalisation of the law in the UK and if you compare it with the five years ending at the time of

the Select Committee report you will see that what we saw in the UK was a 60 per cent. increase in buggery cases, and they were not over-21s, they were in the main under-21s because the over-21s had been made legitimate; it was the under-21s that by and large made up that increase. We saw a 30 per cent. increase in indecency cases, and we then look at the across-the-board increase for sexual offences and you see that we are talking of 6 per cent. Sixty per cent., 30 per cent., against 6 per cent. How can they say that what has happened in the UK has not adversely affected the law and order and social situation over there? They cannot say that. It is a fact that it has been affected and adversely affected and severely affected, and again do not believe for one moment that if you decriminalise this on this Island our crime figures will not reflect similar variations - of course it will. If you say tomorrow, 'This activity is no longer taboo, this activity is okay now, it is recognised in the law. We can argue over degrees - under 21, over 21 - but it is all right, this is a natural thing now, the law says it is okay.' we will experience the same situation here, we will encourage that more extensive activity, that more open activity, and try what we will, we will not be able to protect the under-21s. They have not succeeded in protecting them in the UK and we cannot achieve it here.

Now, the Chief Minister has said, 'Oh well, in practice no prosecutions have been taken here for many years against consenting adults in private. Therefore it will make no difference if we strike it off the book, if we change the law.' It will make a world of difference. Firstly, for the reason that I have said, that it will give it a veneer of legality, but, more importantly of course, it is a means by which one lays down standards. We lay down our standards by proscribing activities on our statute books, and we can turn to hundreds of prohibitions on our statute books in respect of which we have not had prosecutions for years and years, but they serve to put down that marker, they serve to indicate what is acceptable and what is not acceptable conduct, and that is a valuable exercise. So it is fallacious in the extreme to say, 'Oh, we have not prosecuted people for years. Take it off our books!' If we were to do that we will head towards anarchy faster than we are at the moment with some of our activities.

Another red herring is the suggestion that the existing proscription, I may use that term, in particular in relation to the act of buggery, has or could stop people coming forward for treatment, people who are unfortunately affected by the HIV virus or perhaps AIDS cases. Now, of course we are aware that here on the Island, as far as we know, we have two or three HIV cases, we have no AIDS cases. But I am not concerned with the quantity, I am concerned with the principle. There is no evidence that because this law exists it deters people from coming forward. If you are suffering from a disease such as this you will come forward for treatment. There is nothing through the proscription of this act in law which stops us disseminating information and in fact we are disseminating information just as broadly as the UK in this matter. So that does not stand scrutiny at all.

If we were to consider it to have any substance, then of course we would not just be taking this offence off our book we would be decriminalising drug addiction, drug abuse, we would be saying, 'Oh dear, we will stop these people who are drug abusers receiving information and coming forward for treatment. Therefore we must decriminalise drug abuse.', and we could go on and on on the same principle. Again it is fallacious in the extreme; they are grasping at straws.

Most importantly, these proposed amendments which we

are now discussing on the principle of what is embraced in them - I would submit we cannot consider them in the narrow context of letting homosexuals over 21 carry out their practice in private. That is what the amendment says. But you cannot consider it in that narrow context. As the Attorney-General conceded in his evidence to the Select Committee, the law is a moving feast and in future it will be changed. We will have other cases going to the European Court, we will have other decisions made by the European Court. We have to bear in mind, for example, that most European countries have substantially lower ages of consent than what is proposed in these amendments. We have to bear in mind that the equivalent of Clause 37 in this Bill, the clause which prohibits the promotion of homosexual activities, that is already under attack from these activist groups in the UK. That will be before the European Court, no doubt, in the near future. There will be other dictums coming down, and I suppose the Chief Minister is suggesting that once again we should bow to those and change our law.

We have to look at this amendment, I would suggest, hon. members, not in the narrow context of what we are discussing here today, but as to where this takes us, what is the ultimate aim, and it is my submission that the ultimate aim is the establishment and the legitimisation of a sub-culture. This is just one little step. As far as we are concerned this is just to get their toe in the door. Our former Speaker, whom I am sure we all respected, he explained this very well indeed in one of our earlier debates. He said to us, 'Open the door to a little evil and a big evil will creep in.', and that is exactly the point. It will be not 21, it is going to be 18, 16, 14, 12, it is not going to be sexual offences, it is going to be drugs, it is going to go on and on and we are going to have a downward spiral in social standards that will at least equal what has happened in the United Kingdom. Open it to a little evil and a big evil will creep in.

However, it is when we address the matter of the age problem that we see perhaps this issue most clearly the danger, the real danger, of decriminalising the act of buggery, for that is what we are ultimately taking on board in this amendment. Homosexuals who indulge in rectal intercourse are the vanguard in spreading AIDS, they are the vanguard. Ninety per cent. of our HIV/AIDS cases in the United Kingdom have been transmitted by homosexuals. Look to paragraphs 9.3 and 9.4 of the Select Committee report. The facts are there for you. I am not dreaming these up. Evidence has been called to produce these facts for you, and I trust members have taken those facts on board.

So much perhaps for the backdrop of these proposed amendments, and I would venture to say that in their heart of hearts the vast majority of hon. members agree with what I have said. Oh, they may not stand up and say so in as many words, but they know I am right. They know that in fact there is no problem in terms of our treatment of homosexuals on this Island. They are not harried or hounded, as I said. They know that they are better off here than what they are in the UK. They know the issue is an off-Island issue and they know that we are being manipulated, somebody else is pulling the strings. They know in their heart of hearts that we are talking about a learned behaviour, we are talking about something that can be fashioned and followed by others, and they know that this amendment is but the thin edge of the wedge and is going to lead us into far larger problems than what is embraced in this amendment.

But they, I am afraid, are going to be looking for boltholes rather than standing and arguing on the substance of the matter, and I shall address those boltholes, Mr. Speaker,



but before I do so I should also like to say, because the Chief Minister has suggested that we are out of step with Europe, let me just remind members that this particular article, Article 8 of the European Convention on Human Rights, that article is shadowed in Article 17 of the United Nations Convention on Human Rights. The same provision exists in the United Nations Convention. Has the United Nations turned round to all the other member states and said, 'You are wrong, you are out of step - get back in step.'? Not at all because they know very well that the values of the vast majority of the nations that make up the United Nations would not accept it. They would not accept it. This is a European phenomenon. We are talking of 20 states. We may be out of step with the squad. We are not out of step with the battalion.

Now, as I said, I fear that what we are going to see today, because of the war of attrition, we are going to see a number of hon. members looking for boltholes, credible boltholes. They are going to be looking and in some cases a bit embarrassed because we have just come through a general election and they made statements to the electorate at that general election and now they are caught in between and they are going to be looking for credible boltholes. So let us examine some of those boltholes.

The first and most frequently voiced is the one that we are subject to the European Convention on Human Rights and therefore the moral issue does not come into it, it does not matter what we think - we have got to act because we have been made subject to the European Convention on Human Rights. Well, first of all of course, yes, we are bound by that Convention. I do not dispute that. It was never put to this representative body. It was acceded to by the Crown representative of the day. It was not a decision taken by the people of this Island through their representatives, it was a decision taken by the Governor of the day, reflecting the constitutional situation at that time.

But let us turn to the test, and I would ask members to turn to Appendix 7 to the Select Committee report, and I refer here of course to the legal opinion of Mr. Gane, a professor, an expert in European law, and you will see that in fact, contrary to the view which the Chief Minister has given that legal opinion says, legal opinion is that we have no leg to stand on, Mr. Gane says, yes, there is a case to be tested before the court. I think there is a difference here. The legal opinion that the Chief Minister is referring to is legal opinion that is coming via the Home Office, via the UK, legal opinion that is looking at it from a different perspective. But the truth is there is legal opinion given to the Select Committee which says that there is a case to test, and in sum, Mr. Speaker, that case is this, that Article 8(2) permits the right of privacy to be limited on grounds of protection of health and the protection of the right of life, which of course is Article 8(2)(i), and the proposition has not been tested before the European Court. There is a case to test before the European Court, because I have already given you the figures in respect of the high percentage of AIDS cases which are generated through homosexual activity.

So it is far from true to say that legal opinion says that we have no option. We do have an option and that option is that there is a case to be tested before the European Court. Now, the Chief Minister says, 'Ah, but the Home Office will not allow us to have that case taken before the European Court the Home Office will not agree to it.' But he is there to fight that case for us. (Mr. Cannan: Hear, hear.) He is not there to acquiesce, he is there to represent the views of the people of this Island and it is up to him to push that

case. So I am not surprised that the advice which he has got is that there is no case. I am not surprised that he has got that advice, but the fact remains that there is a case to be tested.

But further to that there is another important point made in the Select Committee report and that is this, that treaty obligations are not for the United Kingdom Government to determine. It is not for them to judge us in this matter, it is for the United Kingdom Government to seek interpretation from the European Court. They have no business to stand in judgement on us on this issue. As is spelt out in paragraph 10.7 of the Select Committee report, and I quote: 'Although the United Kingdom would attract responsibility in international law for complying with the international obligation, that responsibility is for compliance with the obligation as interpreted by the appropriate authority, and not by the State party to the treaty nor by one of its dependencies.' They are not in a position to stand in judgement on us and I would submit that if they do so, they would be doing so undemocratically and unconstitutionally. So that is not a very comfortable bolthole for anybody to seek refuge in.

Then it said, 'Well, let us be realists: if we do not legislate ourselves, if we do not acquiesce, then it will be done for us, it will be done over our heads.' First of all - and I think the Chief Minister has accepted this - if they wish to do so it will have to be primary legislation, and that is not an insignificant consideration: primary legislation. It will be on a free vote, and I and other colleagues have been across to Westminster and I was certainly encouraged by the reception I received in Westminster and my colleague received in Westminster. Thirdly, if the Act is wrong, then it does not matter - it is preferable that somebody else acts rather than we be put in a situation where we legislate for something knowing that it is wrong. It would be less harmful in the long run. So anyone that takes shelter in that is again not having great refuge.

We then have the argument that it is better for the Manx Legislature to enact this change in law than to leave it to the UK Parliament, on a different premise. They are arguing that if we change our law, somehow we are in a better position than if we let the UK change the law for us. Well, let us just examine that for a moment. Let us assume that we change the law, let us assume that we all bow today and say, 'Yes, we will change our law.', so we change it. That is not the end of the matter. The next dictum from the European Court or from the UK, whether it be to change the age of consent or whether it be to remove or water down Clause 37 in this Bill, we will be back where we started today. They will be saying to us again, 'You are out of step: you change the law.' The issue will not go away, we will still be getting told what to do, and we are more likely to get told what to do for as long as we acquiesce to that sort of instruction. On the other hand of course they say, 'Oh well, if the UK change the law they could change it of course with relative freedom.' What is the difference? Is there any real difference between the UK, on this issue, changing the law over our heads or us acquiescing and being told again and again to change our law? We are still the puppets on the end of the string. And do not forget that any Bill that we put forward goes across there for approval before it gets on to the Floor here. So you are talking about something that is very cosmetic in the first place. It really makes little or no difference when you come to the bottom line. It is Hobson's choice, and I for one am not prepared to throw the moral issue out of the window, to throw the community's interest out of the window, on the basis of Hobson's choice,

and of course 'No precedent.' says the Chief Minister. The Chief Minister knows that there has been a precedent. In fact it may well have been a number of years ago, but there is a precedent for this type of action. So we are not breaking new ground there.

Then of course the next point of shelter or the next attempt, I think, to intimidate this House is, 'Ah, but you are damaging the economy; you will do tremendous damage to the economy.' Well, I am sure the other members of the Select Committee who sat and looked at this matter with me will recollect very clearly that we advertised, we sought evidence, but we got no evidence from the commercial sector, from the business sector. They were not concerned about this issue and they are not concerned now. I would just like to see how many letters individual members have received from the business community. It is another red herring.

I am conscious of the fact that we may well be dealing with the amendments at a later point in time and I am conscious of the fact that one does not wish to cover the ground twice in this matter, but let me just say this. We are speaking to the principle of whether or not these new clauses should be permitted. I have no doubt in my mind we should not sanction, we should not approve the principle, because inherent in the principle of allowing these clauses to go forward are precisely the matters which I trust I have outlined to this hon. House, and I will carry them forward at a later stage if I need to.

I believe that we would be acting against the best interests of the community. I think we would be acting and allowing ourselves to act having been manipulated into that position by off-Island interests, and if we really go to the substance of the matter, then there is every reason for to hold the line that we have held and to retain the resolve that we have had to date and not to be stampeded.

**Mr. Corlett:** Mr. Speaker, the issue of homosexuality has become a gaping wound in Island life. It is a wound from which is seeping much valuable time and resources and possibly our independence. It is a wound that is harried by the hounds of the media, it is a wound which gives life to unsavoury extremists, and it is a wound which will not heal without courageous leadership from this House.

I abhor homosexuality and during the recent election I stood for a maintenance of the status quo, of a return to the age of informal tolerance. But the events of the last few months have shown to me that this is no longer possible. (**Mr. Karran:** Hear, hear.) In reaching this most difficult decision I have borne in mind what I consider to be the fundamental aspects, the fundamental elements to the problem which are, namely, religion, my Manx heritage, public health and, above all, the national interest and my duty to those who elected me.

In questions of religion and morality we should, of course, always be mindful of the religious perspective. After all, even though a small percentage of the community regularly attend church, Christian teachings and Christian morality underpin our society, if only at a humanist rather than a divine level.

What I cannot reconcile, however, is Christian morality and the vitriolic outpourings from some religious quarters. I cannot, frankly, see Jesus wanting to imprison inoffensive homosexuals, and I presume these religious groups gain their authority from the Old Testament. If so, gentlemen, are they not being selective? Why should homosexuality be criminalised as a result of the Old Testament and not adultery? Is not adultery one of the Ten Commandments and therefore presumably carries greater weight? Adultery,

because of its relative prevalence, is, I would have thought, a far greater threat to the family than homosexuality. In effect do these religious groups want us to adopt the whole of the Bible into the law rather like Iran or Pakistan and the Koran? And why stop at homosexuality? Carried to its logical conclusion, we could become a theological state. The point I wish to make is this: we should respect Christian morality, but beware of people selectively quoting from the Bible.

We are a democratic parliament in the last years of the 20th century. We are not actors in Arthur Miller's play *The Crucible*. We can no longer consider that immorality and criminality are synonymous. They are not. Rightly or wrongly, society moves on and to attempt to impose criminal sanctions on apparently outmoded morality leads to unenforceable laws, and these in turn must lead to the erosion of confidence in other laws.

On the question of my Manx heritage, as I mentioned earlier, I abhor homosexuality, and that is the view shared, I think, by most of us here today and probably by most of the Island, and yet has not the Island always prided itself on its tolerance? Is not the Manx man and the Manx woman guided by the code 'Live and let live.'? And is it not perverse that on the one hand we literally hound to death the minority and on the other hand we celebrate Illiam Dhoné who was a man of freedom? All of us here today know of Manx homosexuals who live quiet, inoffensive and ordinary lives, offending no-one, persons to whom we wish no harm, and I believe the Manx people have always been tolerant of such people and this tolerance existed for generations. It existed until the issue was hijacked by those unsavoury extremists and this hijacking has led on the one hand to the tragic consequences of over-zealous law enforcement and on the other to the media portraying us as a barbaric anachronism, a sexual South Africa.

On the question of public health, one of the views expressed by those opposing change is that it will lead to a spread of AIDS and related diseases. Now, I have a certain sympathy for this view if the Island became a base for promiscuous homosexual holidays, a sort of Manx Mykonos. But how can it become so? Why should homosexuals wish to travel here over and above heterosexuals when their activities are legal elsewhere in the world? And as a layman I would have thought that diseases spread far more quickly and far more insidiously when the underlying activity is driven underground by being illegal. That certainly was the experience in the War with venereal disease and in the present day with the use of shared needles among drugs abusers. Homosexuality will and always has happened in the Island. For health reasons it should be discreetly legalised for acts in private so that infected persons are not afraid to come forward for treatment.

Finally, and perhaps most importantly, I believe we must change the law, not because I agree with homosexuality, but because it is in the national interest so to do. In the national interest because unless we alter the law we will have it altered for us, and rapidly so if Labour are elected, and better a law tailor-made by us and cut to our local sensitivities than an off-the-peg, ill-fitting, hand-me-down from Westminster. Our law should be tolerant of acts in private. Our law should continue to condemn acts in public. Is our independence, which has been hard fought and long cherished, worth sacrificing for emotive objections to a small, sad minority? I do not think so. Again in the national interest because of the genuine concern and the uncertainty and indeed the fear that the situation is causing in the community and because our stance is making us not respected in the rest of the world,

but ridiculed, and ridiculed not just by the media but by ordinary people, people I meet on my travels, business people, ordinary men and women. In the national interest again because institutions will be extremely wary of investing or continuing to invest here if they risk attack from powerful pressure groups at home. Mr. Speaker, do you remember South Africa? They are a powerful country that tried to turn their back on world opinion. They failed. How can we succeed? And are our views, heartfelt though they may be, worth the cost of Manx jobs, Manx jobs, Mr. Speaker. Perhaps some of us today can afford to stand by their objections, maybe they can afford to, but most of my constituents cannot.

Of my duty to my constituents, a leading American statesman said earlier this month that a responsible politician was someone who tried to make popular that which was unpopular if it was in the national interest to do so. I believe this is just such an instance. I believe we have a duty to lead the Island out of this mess and to heal the wounds, to present the Island to the world as a caring and safe community, and to let the extremists skulk back to their seedy bedsits and their sterile sermons, and to move forward to pressing matters of national importance of health and of education and of the economy.

In making this speech I do not believe that the central tenets of my views and those of the hon. member for Ayre are far apart. The hon. member was quoted as saying in the London *Independent* yesterday that we have homosexuals here who are not bothered or harrassed in any way. I agree. And he goes on to decry the prospect of open and indiscriminate activity. That is also my view. (Mr. Brown: Hear, hear.) It can be distilled down to the phrase, 'What you do in private is your own affair, but if you try to impose your behaviour on me or my family, it is at your peril.' To achieve this we must alter the law to allow for acts in private, and I do stress, in private, otherwise we place our police in an invidious position to enforce a law that is practically unenforceable, law which in any event there is no apparent political will to enforce, and dead law is bad law.

Accordingly I support the amendment to the Bill moved by the Chief Minister to decriminalise homosexuality, and I am prepared to explain to my constituents my reasons for so doing, and I urge my fellow members to do the same. Thank you, Mr. Speaker.

**Mr. Brown:** Mr. Speaker, I congratulate the hon. member who has just resumed his seat on what I think is a very balanced and understanding speech as to really the situation that we here on the Island see ourselves in, and one of the most important parts was that we have a responsibility and that responsibility is to lead the people of the Island into a position where we can respect ourselves and, hopefully, hold our head up high.

My main reason for speaking is really just to try and at least put another side to this on the basis of the speech that the hon. member Mr. Quine made. In his speech the main points that he made apart from the moral issue - and I think we all agree on that side of it; I think all of us are Christians and therefore believe in that side of it, and I think again the hon. member for North Douglas in fact made that point very clear, as to how in other parts in fact criminal law could in fact take effect and does not - but the hon. member for Ayre made the point that the partial decriminalisation will be harmful to the Island, and the hon. member has made this point over and over again, on how he sees, by allowing the decriminalisation of acts in private

between two consenting adults over the age of 21, it will bring them out on to the streets. He actually mentioned today greater openness, people in public parks, because we do not have to close ours and therefore they will be in the public parks, so that was his inference, and they will be out on the streets. And, yes, the hon. member would be right, except he totally ignores this very Bill that is before the House. This very Bill that is before the House protects that other side of it, strengthens very much the public side of it. We make some 26, 28, something like that, new provisions to actually safeguard people against homosexual acts or offences. Clauses 24 and 25 specifically pick out that it will be an offence 'persistently soliciting or importuning by a man or a woman an offence in a street or public place'. They were not there before; it was just a woman. In this Bill we are actually extending that to cover a man doing that. Clause 25 will make it an offence for 'loitering or soliciting by a prostitute in a street or public place', and this is also, if this Bill is passed, extended to cover male as well as female. So it is not one-sided. Infact we have produced here new offences to try and protect all that side of our Island way of life. The rest is then up to effective policing, and in a small community like ours I do not believe that there would be any problem in that area.

Some 26 new offences to try and cover this, to protect the people that we all want to protect. I have children, other members have children, and we want to make sure that we can provide protection where it is needed. Clause 1 - rape is extended to cover homosexuals and extended to cover buggery. Clause 2 - to procure a person to commit a sexual act - extended to cover homosexuals. Clause 3 - to drug a person so as to induce him or her to commit a sexual act anywhere - extended to cover homosexuals. Clause 4 - committing a sexual act with a person under 13 years of age - extended to cover homosexuals, and life imprisonment. Committing a sexual act with a person under 16 years of age - extended to cover homosexuals, seven years' maximum imprisonment, and so the list goes on - some 26, 28 new offences created by this House in this very Bill that is before the House today if it is approved by hon. members.

So let us not forget that side of it, because I have to say, in all the arguments that have been made, that side has been conveniently forgotten: to inform the public that this House is trying to ensure protection of the ordinary man and woman in the street and child. That is in there if we pass it, it is in there, and do not forget that side of it, please.

The hon. member then went on to say we will not be able to protect the under-21-year-olds. Well, again I would say, read the Bill, consider the clauses carefully, see what it says. We are increasing sentences from two years to seven years, to life imprisonment in some cases, covering both males and females. Major changes to our 1967 Act, catching up in some cases.

But the other thing the hon. member made was the point about we will not be able to protect our under-21-year-olds, and I would suggest certainly not if the UK pass legislation which is then on us on the Isle of Man, because there is no doubt - and every hon. member knows this, as the Chief Minister has said - of the lobbying and the sympathies within the political parties towards lowering the age to 16, and if the UK implement legislation on the Isle of Man I do not think there will be any doubt that that age limit will be the same as the UK.

The choice is quite stark, Mr. Speaker: who are the legislators of the Isle of Man? This House and Tynwald or the United Kingdom Government and its Parliament? Who is to control the age limit on the Isle of Man? This House

or the UK Parliament? Twenty-one or possibly 16? The European Convention is quite clear: it only talks about 21. What individual parliaments do is a matter for them, but I would suggest that the people of this Island, while they might not be happy, would certainly be less than happy if, in a short period of time, we had to justify why the United Kingdom Parliament put on us an age limit of 16 years for people who are able in private to consent to homosexual acts, and that is why I believe, Mr. Speaker, (1) it is our responsibility to ensure that does not happen - and certainly I do not agree with that being 16 - and that we comply with our international agreements on behalf of all the people of the Isle of Man.

I would urge members to support the resolution before us because I believe the option is far, far greater a danger to this Island than supporting it is, and ultimately it is our responsibility to make legislation for this Island, not Westminster's.

**Mr. Corrin:** Mr. Speaker, a society without standards is a society in decline, and indeed if you look at today's *Examiner* you will see what I mean. It is really frightening that the society, our small Island, that we should read in our paper, there are headlines 'Dangers in frightening year - police chief reports'. The write-up in the leader article in the same vein. The hon. member for Ramsey, Mr. Groves - 'Ramsey shaken over latest mugging' - he is concerned. Falling standards. 'Drunk threatened to hurl himself under car' - falling standards because we have one terrible drink problem on this Island; it is under the carpet, but it is there. Falling standards, all these things mean falling standards. Some time some people will say we are becoming better off in the pocket, but I wonder if we are becoming any better off in the mind and in the life we lead. I really do wonder. What we are faced with today is seen on this Island and indeed in truth by the United Kingdom at large is an erosion, a further erosion of standards, regrettably, but that is what it is.

I have spoken here before on this subject and I do not intend to repeat what I have said before - it is on record, that is the end of the matter. It is referred to as sexual freedom, sexual act. It is nothing of the sort. The sexual act is between male and female, and that is the end of the matter. It is unnatural and yet it is called a human right. I cannot accept that, a human right. What is human about it? Humans refer to acting like animals. As Minister for Agriculture I am not faced with any problem like this, none whatsoever. Animals do not indulge in practices like this. So why is it a *human* right, a right, human? What is it? It is not that at all. Now, if someone would use other words or something, then maybe I could accept it in that context as what it is, but it is not a human right.

In asking members to reject this clause I do not have to mention religion or medical views. I just make my case upon a basic human standard, nothing else, a standard still upheld by the majority of the public at large, and that is the truth, that is the truth in the UK. No-one can challenge that. However, in a world of deteriorating standards it is not easy for the true views of the average citizen to be heard. The media controls. Distortion of the truth is the order of the day. Look at newspaper reports, Mr. Speaker. I do not know who asked the Central Library to bombard me with this kind of stuff every day, but it has been coming through now for about two years. If I want to find out facts, as I do on many other subjects, I will go and ask or go and look it up myself. I do not know where this kind of Standing Order came from, but it must have cost a lot of money in paper. But in reading

this UK newspaper report it is full of distortion, and that saddens me in its own right because it goes on, after making a case on the homosexual issue as such, to refer to certain events that have happened recently, what has happened recently is all thrown at the Island as if the Island is bad, and yet the Isle of Man Constabulary, they have acted under a law no different than the UK, but it does not say that, (**Mr. Gilbey:** Hear, hear.) and I only wish the media, the UK media, had the integrity to -

**The Speaker:** Hon. member, would you resume your seat just for a moment. We have got to be awfully careful during this debate - and I do intend that we use the maximum discretion because of the importance of the subject matter - we have got to be awfully careful about the *sub judice* rule, and I would advise every member to bear these my remarks in mind. I am not saying that the remarks that you made were *sub judice* but, looking ahead, they may have tended to go that way, and I would ask every member please to bear this issue in mind. Thank you.

**Mr. Corrin:** Mr. Speaker, I appreciate what you say fully and I shall take note of what you say. Now, the general principle throughout history, because there has not been one prosecution for the reason that the law is attempting to be changed, there has not been one prosecution, but there has been a message. It has been seen as that. All other police activity on this Island has been under a law exactly - and I am talking about history now - has been exactly as it is in the UK now, exactly. That is not mentioned. I only wish media, the UK media, never mind the Isle of Man, just had the integrity to say that. At least I would read their case and I would say, 'That is an objectively stated case.', but it is not that at all, it is distorted beyond.

Change our law because our wise brother, the Westminster Government of whatever shade, because they have wiser counsel. That is what we are being told, they have wiser counsel, they know better, and yet right now they are in the middle of an election, and we observe how they are conducting their election and what they are saying, and we have to believe that it is wiser counsel, we have to believe that? Have we ever seen anything so pathetic?

**Mr. Kermode:** Yes.

**Mr. Corrin:** Concede our basic standards, we are told, otherwise wiser counsel will prevail, otherwise there will be dire consequences. Be democratic, we are told, submit. Where does it all stand? Where does it all add up? Where lies our freedom? That is the question. Where does our freedom lie in the Isle of Man? Where does the democratic system stand? Indeed you can ask the very question of Jersey right now because the Home Office has decided to sack their Deputy Bailiff. So there are other issues that you can come unstuck on; this is not the only one. If we do not change, then that decision is at our peril. The situation is there are other reasons too. So where lies our freedom?

The root cause of the problem goes right back to 1953. Our then colonial system of government did not allow the people of the Isle of Man to be consulted on this issue, and had they done so I am sure of course that the result, the view would have been no different. I am sure that is the case. But at least now when you come to tell the people of the Isle of Man, 'You must obey your international obligations - you are at fault, you the people, you are at fault.', at least they would have understood it. That is really the crunch, the basic problem that we face today, and the average person

who believes in upholding standards of dignity, they find it difficult to accept that they should now accept a degree of blame, and yet they were never even consulted. That is a problem, a central problem in this issue. Also they feel it difficult to accept blame when over the years the Isle of Man, the people of the Isle of Man, they have shown tolerance to the nth degree, quite acceptance and understanding of those people who are, as they say, of a homosexual persuasion. I am not aware of animosity, ill-treatment or anything else over the years. Some of them who we understand of that persuasion are our friends. We may have many other friends who we do not know about and are our friends - we have never had any reason to ask, and yet this pressure has come from the outside and more or less saying to the majority of the people of the Isle of Man, 'You are the ones that are to blame, you are the criminals.', and that of course is totally unacceptable and is a very said situation that we have arrived in.

Also the manner in which the case has been put has been most regrettable, as we witnessed at last year's Tynwald, most regrettable. Whatever the argument, it was unacceptable behaviour, and I am sure that the mover of this Bill will agree with that: totally unacceptable and uncalled for, if that is what we want to have to do as a reasonable argument.

I have said that I have not got to refer to religion, I have not got to refer to medical statistics or whatever, because then all sorts of people with strong views come in either side. The central issue is a very, very simple one. It is a standard of behaviour that the majority of people find unacceptable. I see that standard no different than a so-called heterosexual who commits unacceptable practices, crimes, whatever too, and indeed the mover, when he made his contribution just before me, he pointed out some of the excellent, in fact I would say everything that is in there which is absolutely first-class and commands widespread support. It applies to anyone - unacceptable behaviour no matter what your persuasion. That is what it is all about. So it is not a 'Them and Us' situation at all, it is not that at all, and I do ask the media, I do ask those who say they are of a homosexual persuasion to understand others' point of view too, because there is another point of view, there is.

Of course for the future there are problems that are posed. If the law is changed, if it is 21, the legal limit, and if in the UK or elsewhere they lower it to 18 can we really believe that the Isle of Man could then be the last one out at 21? Could we really believe that? Of course not. Then we will be the odd one out again and the pressure will be on for 18 or whatever. (**Messrs. Cretney and Cannan:** Hear, hear.) That is the reality of life, and I am sure everybody here will accept that simple explanation. That is the way it must be. So, hon. members, for those who are voting for change, bear that in mind: that is the ultimate consequence; inevitably it will be. I know that, I accept that. I am not going to vote for the change, but I know that if it does change, inevitably in the near future that would happen. I accept that. I would not vote for it, but I accept it. That is the reality of life.

So it is a difficult one and for the people who I express, shall we say, when we say we represent, the people who I express the opposing view, I have said it before, I find it totally unacceptable, but it is certainly not a case of any hatred or anything like that that that view is expressed from, because the people who have expressed the views to me that they do not want the law changed are just the average person in your constituency, that is what they are. The majority of them working hard for many causes, taking part in

community life. They are disturbed, they do have a fear and they do see that standards in the Island are falling, regretfully. So when we see the headlines in today's paper - there they all are in the *Isle of Man Examiner* today - and when we see, for example, the hon. member for Ramsey, 'Ramsey shaken over latest mugging' - a different subject but the same principle, we, from this House of Keys, put out a message about standards. I also hope of course that when we put out a message we try and adhere to that message and uphold standards ourselves too, set an example. I hope we do.

So I hope that we will have the strength to say, no, we feel that we cannot change on this issue, and I trust that our peers, i.e. in the first instance the United Kingdom Government, will give us some recognition of our genuine views. Thank you, Mr. Speaker.

**Mr. Corkill:** Mr. Speaker, thank you. It is not necessary for me even as a new member of the Keys, to plough through the arguments surrounding the controversies of this Bill and the amendments. The various aspects are well known by all hon. members. However, it must be said that the various extreme pressure groups, along with the media, have manipulated this hon. House to such an extent that the people of the Isle of Man are fed up and disillusioned. (**Members:** Hear, hear.)

The time spent on this Bill has been quite considerable, especially when one realises that the contentious issues will have to be dealt with anyway, whether it is by us or the United Kingdom. As a result the very considerable protection that the hon. member for Castletown, Mr. Brown, has already mentioned, the considerable protection that this Bill provides for other people has been held up. Let me say now that I support wholeheartedly the safeguards that are to be laid down which recognise the social evils of rape, rape within marriage, incest, prostitution et cetera and which also provide legal protection for young persons.

My view on homosexuality is simple. It is a practice that in my view is immoral, it is offensive and degrading. But the issue before us is one of human rights, and I can, admittedly with difficulty, accept that two homosexuals - what they do in the privacy of their own home is their business, it is nobody else's.

But, more importantly, we must realise that the decriminalisation of homosexuality will not be decided upon by this hon. House; it is a matter that is already decided outside of this Island. The message to us is loud and clear: legislate or be legislated for. We cannot afford the United Kingdom to impose totally their ideas and we have no input whatsoever on this piece of legislation.

The amendment before us presented by the Chief Minister will have my support. I will vote for the amendment and by doing so I believe will be giving a vote of confidence for the constitution of the Isle of Man, a vote for our good relationships with the United Kingdom, and a vote for our compliance with our international obligations to the European Court of Human Rights. I believe it is a vote for common sense in an adverse situation as well as a vote for the very credibility of the Isle of Man. I want the Isle of Man to further its independence. I hope in the years to come to vote positively in this area, but I do not believe this subject is the one to go forward on. Thank you, Mr. Speaker.

**The Speaker:** Hon. members, just before I call for the next speaker, I would just like to remind you that we are not talking about an amendment, this is a new clause and we talking about approval of this clause in principle, and

I think this is an important distinction which I would ask you not to overlook. Now, is there anyone else who would like to speak? The member for Peel.

**Mrs. Hannan:** Thank you, Mr. Speaker, and I would like to congratulate Mr. Corkill on his maiden speech. I do not agree with everything that he said but I certainly support him in the way that he expressed it this morning.

I rise to my feet because I am concerned about some of the impressions which have been given during this debate. I think it is very easy to say that we do not like certain activities, that maybe we will vote for a change in the law because of other reasons, and I accept the reasons that members are going to express themselves possibly later on. But I think the member for Ayre made one or two points which rather concerned me because he talked about this learned behaviour of homosexuality, and all the studying that certainly I have been able to do on the subject has not followed that through. It is not a learned behaviour. It is something that scientists do not yet understand, but there is research being carried on all the time to try and understand this concept, and the studies to date have shown that there is a presence of certain male hormones during the critical period of development and these organise the masculinisation of the foetal brain. This is while the foetus is *in utero*. This work has been supported in recent times by evidence of the size of certain brain cells as seen in the brain scans of homosexuals. Evidence from the studies of identical twins brought up separately from birth show that there is a much greater chance of both being homosexual if one is homosexual - again pointing to a pre-birth cause.

So I hope that the hon. House will understand that the learned behaviour as put forward by the member for Ayre is not a scientific response, it is something that people have decided that that was the case.

I think it also has to be understood in sexuality terms that most normal, or you might say what we would consider normal, young people go through a homosexual phase and they express themselves homosexually. That does not mean that they are homosexual, it means that it is more of a natural development, and therefore I do not think that anyone who has gone through that phase should necessarily see themselves as being homosexual. It is a natural phase in their development.

Now, another point mentioned by the member for Ayre - and I am sorry he is not here; he has decided to leave the House - but he mentioned about increased activity in the United Kingdom following the Select Committee of the House of Keys going to the United Kingdom, and in actual fact this is refuted by a letter from the Metropolitan Police Office, the Community Involvement Branch. It is signed by Chief Superintendent Peter Stevens, and I will read it because I think it forms part of the concerns that have been expressed. I have read it before in this House because it was received on 22nd March last year when we were discussing this Bill on a prior occasion. The Report of the Select Committee was not sent to the Metropolitan Police, but I took the opportunity of sending it to them in March of last year and sought their comments, because of the comments that had been expressed in the Isle of Man following the production of this report. So Chief Superintendent Peter Stevens thanked me for the copy of the report of the Select Committee and said that he was 'sorry that the report of the meeting of 11th June 1990 with officers of the Obscene Publications Branch had not previously been seen at Scotland Yard. The report does not place quite the correct emphasis on the views of the officers interviewed and I write

to correct any mis-understanding and to answer the points raised in your letter. There is no evidence that the relaxation of criminal law in removing as a criminal offence buggery when committed in private, with consent, and where both parties are over 21 years has led to an increase in criminal offences of any kind. The Sexual Offences Act was introduced following a more tolerant attitude in British Society towards minority groups and homosexual activity amongst consenting adults in particular. There is no evidence that this change in law has encouraged homosexuality or, on the other hand, hardened public opinion against homosexuals. In my opinion public attitude today is even more tolerant and concerned towards minority groups. As an example the Metropolitan Police Civil Staff strategy to promote equality of opportunity now includes sexual orientation. I enclose a copy of the policy. To answer particular points in your letter:- Certain areas of London, ie a small area of Hampstead Heath, were historically known as homosexual meeting places. These meeting places are well known, even advertised in certain publications, but were in existence long before the Sexual Offences Act. There are no areas in London that I am aware of, certainly not in Hampstead Heath, where families are reluctant to go. I understand that there has been an increase in male prostitution, male brothels and male escort agencies but the same is true of female prostitution and I do not think the increase is in any way attributable to the Sexual Offences Act. There has been a relentless increase in all crime activity in London over the past 30 years and only a tiny fraction of crime is attributable to homosexual activity. On the other hand gay men and lesbian women are frequently victims of serious crime, particularly gratuitous violence, grievous injury being not infrequently inflicted upon them for no other reason than their sexual orientation. The Metropolitan Police is very concerned to provide help and support to victims of such crime and we are committed to the prosecution of those responsible for these outrageous attacks. I hope this letter will assist you to appreciate the balance that has been maintained in enforcing the law whilst providing support and equality of opportunity to a very vulnerable minority group.' And that is signed by Peter Stevens, Chief Superintendent of the Metropolitan Police Office Community Involvement Branch, and I will circulate this for members if they should wish.

Mention was also made of the risk of HIV, and I make no apology for reminding members that there is a high risk group: it is unprotected vaginal or anal intercourse and the sharing of needles; medium is protected vaginal or anal intercourse; and low or hardly any risk is oral sex. But I am sure we are not suggesting that all vaginal sex should also be just to protect public health.

Mention was also made of the age of consent and we are concerned that the United Kingdom might wish to legislate over our heads. But the reason why I support this legislation is equality. I believe that women should be treated the same as men. I believe men should be treated the same as women. I believe that men and women should have the same protection. I believe this piece of legislation gives men and women that equal protection. I do not believe that this Bill gives heterosexuals any more protection than it should give homosexuals, and I would hope that this hon. House will support the decriminalisation. There are many reasons of course why I feel that the law should be changed. But when we are talking about the law of consent being 21 for men I wonder why there has never been any move for the increase of the age of consent for women, not in homosexual activities or in heterosexual activities, and we only have to

think about girls of 16 who can be taken advantage of. What we are saying is that boys of 16 should not be taken advantage of but girls of 16 - that is acceptable.

I have not moved an amendment on this point, but I do feel that while we are talking about a piece of legislation that was introduced many hundreds of years ago in actual fact, 1665, we are now talking about changing attitudes. We are not changing our attitudes towards women, and I accept that it is a very male-orientated society and the male must be protected, but I feel also that it is beholden on some of us to protect everyone equally, and I would hope today we will protect people equally.

I would urge members to support the decriminalisation of homosexual acts. I would remind members that there are 26 new offences to protect everyone from people in authority, whether people are handicapped or not. I am just very concerned that this protection has not been, shall I say, moved down towards women in our society to also protect them from males in our society.

**The Speaker:** Does any hon. member wish to speak or can I call upon the mover to reply? The member for Onchan, Mr. Waft, followed by the member for North Douglas, Mr. May.

**Mr. Waft:** Thank you, Mr. Speaker. I, like other members, have been inundated with chapter and verse from differing religious denominations who use extracts from the Bible to further their views on homosexuality. I find it interesting to note that none refer to John, Chapter 8, Verse 7. However, be that as it may, I am sure they all feel that they are furthering the cause against legalising homosexual acts in private between consenting adults.

We are discussing today the homosexual taboo. In 1935 Sigmund Freud wrote that whilst homosexuality is assuredly no advantage, it is nothing to be classified as an illness. We consider it to be a variation of the sexual development. The 19th century saw the beginning of the clinic model of homosexuality and the campaigning which challenged orthodox heterosexual assumption.

Magnus Hirschfeld established the Scientific Humanitarian Committee and the Institute for Sexual Science in Germany in 1897 and campaigned for the acceptance of homosexuality up until the 1930s when the Nazi movement stopped it and started a policy of extermination instead.

The publication of the Kinsey Report in 1948 and 1953 contained findings of interviews with over 12,000 American men and women. Among the men 37 per cent. had experienced some post-adolescent homosexual activity. He stated that such responses were to be found in all walks of life and among all social groups. His view was that homosexual behaviour was neither unnatural nor neurotic in itself but an inherent physiological capacity.

It was not until the 1960s, a decade after proposals for change in the British Wolfenden Report, a study produced in 1957 by the Committee on Homosexual Offences and Prostitution in Britain which recommended that homosexual relations between consenting adults in private be legalised, that the legal situation began to change.

The 1970s and 1980s saw significant changes in attitudes. However, with the arrival of AIDS and its public identification with homosexuality. There was a return to more hostile attitudes.

The term 'homophobia' was coined in the early 1970s by an American psychiatrist, George Weinberg, in his book, 'Society and the Healthy Homosexual', who defined it as

a dread of being in close quarters with homosexuals. Researchers using Weinberg's Scale of Homophobics have suggested that people intolerant of homosexuals are likely to be more authoritarian, dogmatic, intolerant of ambiguity, more status conscious, sexually rigid, more guilty and negative about their sexual impulses and less accepting of others in general. Such people are less likely to have had personal contact with lesbians or gay men, are less likely to report having engaged in homosexual behaviours, are more likely to live in areas where negative attitudes are the norm, are more likely to be religious, to attend church frequently and to subscribe to a conservative religious ideology, are more likely to express traditional restrictive attitudes about sex roles, are less permissive sexually or manifest more guilt or negativity about sexuality, are more likely to manifest high levels of authoritarianism and related characteristics. Heterosexuals tend to have more negative attitudes towards homosexuals of their own sex.

The term 'homosexual' was invented by a sympathetic Hungarian doctor, Benkert, in 1869. From this time until the 1970s the mode of thinking about homosexuals was clinical. It was primarily viewed through a medical framework as a pathology. Its causes were located in a biological degeneracy or family pathology and treatments ranging from castration to psychoanalysis were advocated. Although since 1973 the American Psychiatric Association has officially removed homosexuality from its lists of pathologies.

Research has shown that the negative self-image and worry may be so extreme as to lead to thoughts of attempting suicide. In the London survey nearly one in five homosexuals had made a suicide attempt and in a survey conducted by the Parents Enquiry in 1982 some 55 per cent. had made a suicide attempt. These are desperate acts and worrying figures which have been indicated in other research studies. Indeed our own Island suicide rate, whatever the cause, is of great concern. Emile Durkheim, the French sociologist and author of the famous study on suicide, indicated that the number of people committing suicide was an index of the moral health of his society. These surveys highlight just how traumatic it can be to come to identify oneself as a homosexual in a society which has structured out the possibility and plausibility of being so.

Recommendation number 16 of the Isle of Man Health Services Review by Liverpool University recommended that Tynwald give due weight to public health considerations in reviewing the law with regard to homosexual behaviour between consenting adults in private. The dilemma that faces us today, leaving aside the religious aspect for a moment, is not so much homosexual acts in private between consenting adults as the fear of the promotion of extremist organisations taking advantage of this legislation now under review. In the eyes of a large section of the public there is a distortion of the issues involved. Most of their concerns are catered for within the legislation.

I must refer to a letter which appeared in the *Isle of Man Examiner* on Tuesday, March 24th 1992, written by the Reverend David Gordon, Reverend Gerry Turner, the Reverend Warren Adamson who wrote, 'Are our legislators naive enough to think that the homosexual community will be content until they are permitted exactly the same rights as everyone else?'. These words written by supporters of the status quo have given the clearest appropriate argument against the status quo I have heard yet. 'They will not be content until they have the same rights as everyone else.', if we can think about that just for a second. This is a clear indication, if one is needed, of the intolerance which exists

in our society today, to realise that they feel that some groups of people should have less rights than anyone else.

The research done into the fears of some members of the community regarding homosexuality are well documented, and I can well understand the way some members feel they have to vote on this issue today.

As I read this, let us not forget there are many young people dying of AIDS throughout the world. The Government's AIDS health education initiative in 1987 was furthering the need for safe sex. However, the implications of AIDS, as we know, does not only concern the gay community. The Howard League Working Party on Sex Law Reform stated that because an open admission of sexual activity is effectively an admission of crime this inhibits youth from confiding in parents or seeking information or counselling elsewhere, encourages youth organisations to ignore the needs of homosexuals or to pretend they do not exist. Many feel unhappy, socially isolated, guilt-ridden and perhaps are tempted to look for sex contacts in other unsuitable venues.

How can we ignore such a varied source of academic study with conclusions that show us time after time that homosexuality is a physiological capacity as is heterosexuality, the difference being in the level of social acceptance, causing grave psychological problems for the unacceptable element of society.

This piece of legislation should have been dealt with by the previous House. The public are sick and tired of hearing us go through this self-destructive exercise. It would be naive in the extreme if we were to assume that Westminster would not use this as an opportunity to legislate and continue legislating as and when they think fit. However, this is no argument for legislating in fear of the UK or the European Community. We must make the decision based on reasoned argument and consideration of the facts before us and not in anticipation of what Whitehall may or may not do.

I feel I have given full consideration to all the issues involved. This albatross has been around our necks for far too long. Let us be done with it and get back to steering the ship before this ship, this Tynwald, founders on the rocks of cant, hypocrisy, dogma and rhetoric. I support the inclusion of the clause in principle moved by the right hon. member for Rushen.

**A Member:** Hear, hear.

**Mr. May:** Mr. Speaker, in rising to my feet may I congratulate the hon. member for Onchan, Mr. Corkill, on his maiden speech, not an attractive subject to make you maiden speech on or a more contentious one I could not imagine, but nevertheless I think that should be said. Indeed I think it should be said and it is notable this morning that probably the most constructive and effective contributions to this debate thus far have come from the newly elected members of this hon. House. (**Members:** Hear, hear.)

My views on this subject have been plainly aired within this House on previous occasions and I will just make it perfectly clear from the outset of my remarks that in essence those views have not changed. My opposition to the decriminalisation of homosexual acts between consenting adults has been consistent, and I also have to say that my view of this issue was strengthened by the imported rent-a-mob tactics that were employed by the proponents of this cause in defiling our national day, which was an offence and affront to every decent individual in this Island, and such actions I can only describe as being utterly deplorable, and far from promoting a greater understanding of the

objectives, all it did was serve to harden public opposition to that particular cause. Possibly, as the Chief Minister said in his opening remarks, that may have been the intent.

But in saying that I also have to say that I find equally offensive some of the bigoted and vitriolic correspondence that I have received and other members have received in the name of religion, (**A Member:** Hear, hear.) and, quite frankly, to read correspondence such as the letter I have in my hand which imparts a doctrine of hatred and venom and at the same time gives me a quotation, 'But also teach me tolerance and freedom from disgust and never let my thoughtless tongue be quick to criticise.' - I have to say I find that one does not sit very easily alongside the other sentiment.

We in this hon. House, those of us that were here during the course of the last House, have been literally beating ourselves about the head with this for five years now, an exercise I described in the last Administration as being one of self-flagellation.

**Mr. Delaney:** It is not covered in this Bill.

**Mr. May:** And it is not covered in the Bill. But at the same it cannot be denied that this issue which has caused so much torment and disruption and division within our Island community has brought out the worst in the extremists on both sides of the fence, and I take no sides in that issue. However, that is the simple fact of the matter, and now we find ourselves faced with the final dilemma: whether, quite simply, we accept the introduction of this new clause under our terms and remain masters in our own house or dig in - let us adopt the ostrich syndrome, 'It is not going to happen to us.', and allow the UK Government to impose legislation upon us, with all the implications that that entails.

Now, I have got no difficulty this morning, and I am sure I am not alone in this, in admitting that for the past couple of months I have agonised on this subject. I have lost sleep on it. I have veered from one argument to the other and looked at it, and I have got to say that at one time where I had no doubts, time has moved on, and I think we have to recognise that and recent events as well have caused me to indulge in not inconsiderable soul-searching.

The prospect of imposed legislation is not merely a threat, it is a certainty, and anyone within this House or outside of this House who tries to depict otherwise is deluding the public. It is a certainty, and it is time that we as hon. members of this House, with a responsibility to the public and the better interests of the public, recognise that fact. I think we all should come to appreciate the point and give the matter the deepest and most serious thought. We are today at the final hurdle. None of us or any of the public in general should be in any doubt about that fact, and neither should we be in any doubt that the scene is now set - it has been illustrated this morning - already, within the United Kingdom to reduce the age of consent for homosexual activities to the age of 16, and, quite frankly, I have to say that that is a concept that appals me and it is one that I cannot countenance.

I am in no doubt that we all need to very carefully consider our actions and examine the full implications of the decision which we have to make today. The choice before us is stark, as has been said, and, if you like, it is a choice between two evils. On the one hand we can continue to adopt a stance that has brought us to this situation in the full knowledge that ultimately in the not-too-distant future legislation will most certainly be imposed upon us, legislation which could well do irreparable damage to the long-term future of this



Island and its community, damage to the very base on which our very existence depends. Also legislation could be imposed which in all probability will open the doors to the inclusion of youth, the youth of our Island, within these practices. That is the choice on one side. Or the choice on the other side is standing up, accepting our responsibilities, recognising we are faced with a dilemma, but it is a dilemma that nobody else can solve, nobody sitting within the Public Gallery or outside in the street can solve. It can only be resolved by the members of this House. (**Members:** Hear, hear.) Either way we have to face up to the indisputable and inescapable fact that one way or the other, whatever the decision this House makes today, we are effectively at the end of the road. This legislation is going to be introduced whether we like it or not and nothing any of us says is going to alter that, it is going to happen, and, that being the case, it is surely in the interests of all the people of our Island, not the vociferous section alone but the silent people who did not pass their comments on this particular issue, but surely in the interests of all of our people it is better for our long-term future and our long-term security to ensure that we are in control of the situation.

Each of us has to live with our own individual conscience on this matter, irrespective of the final outcome, and, as I say, I - and I know I am not alone in this - have given considerable thought and discussed it with a number of people as to my particular attitude. But that being the case, I personally can no longer indulge in a futile defence of that which, without a shadow of a doubt, is doomed to failure. The hon. member Mr. Quine made a reference to being out of step with the truth. To further indulge in the process is similar to the 5,000 charging valiantly onwards to be wiped out at the end of the day. I am convinced now that it would not be in the best interests of the people of this Island to adopt that headlong stance, and consequently, albeit reluctantly, I will support the introduction of the new clause, and in doing so I want to make it perfectly clear that this decision is the result of my own deliberations in this matter. It is not the result of toeing any Council of Ministers line, and I will make that perfectly plain. Indeed when I was offered my current appointment I advised the Chief Minister at the time that my stance in this issue had not changed, and to this moment in time the Chief Minister is not aware of what I was going to say this morning or what stance I was going to adopt. My stance is my personal decision and mine alone.

We are literally at a crossroads, a crossroads at which neither path is particularly attractive, but in the final analysis we, as the elected members, must bear the responsibility for choosing that which will prove to be the least damaging for the people of our Island. I have made my choice and I am going to support the new clause. It has not been an easy decision, and I am sure it is not an easy decision for anyone else sitting within this Chamber this morning, but, having considered all the arguments both for and against, I am of the conclusion that I cannot compromise my conscience and my duty to take decisions in the public interest in the cause of short-term political expedience.

**The Speaker:** Hon. members, the House will now adjourn and the adjournment will be until 2.30.

*The House adjourned at 1.00 p.m.*

#### SEXUAL OFFENCES BILL — CONSIDERATION OF CLAUSES CONTINUED

**The Speaker:** Now hon. members, before lunch,

including the proposer of the new clauses I calculate 10 people had spoken. Can I have an indication as to how many hon. members would wish to make contributions to this particular debate? Who would like to be the first person to make his contribution? Otherwise I may be forced to call for a reply. The member for Rushen, Mr. Cringle.

**Mr. Cringle:** Thank you, Mr. Speaker. In fairness I do not think there is any way in which we would allow you to call the vote, sir, (**Members:** Hear, hear.) quite at this stage yet. However, I do feel that this morning, in fact, we have had a very interesting debate, and I have certainly sat in my seat and listened to the whole of the debate with interest, wanting to know exactly how the feel of the House was, and I must say that to some extent I felt that there was almost an air of sadness, almost an air of, well, disquiet, an air of discomfort; there was certainly not a lot of confidence, and what disturbs me is that in fact, because we have an issue - and I acknowledge 100 per cent. that it is an emotive issue - what disturbed me more than anything so far in the debate is that we appeared to be too measured and not with enough confidence, and I think to some extent I would have to say that the tenor of the debate was set by my colleague, my friend for many years, the Chief Minister, who was very measured in his deliberation and I know full well that he was very measured in his deliberation, and in his presentation to us possibly because he feels that in fact he may be on somewhat of a hook. In his presentation to us this morning he was certainly spelling out the issues from, as it were, the hot seat within Government.

Now, there are those in this hon. House who have very deliberate and forthright views on any given subject, and I think this is one which to a large extent many of us can have very deliberate and forthright views on, but let us just briefly look at some of the comments which were made in the Chief Minister's opening remarks, where he talks about the right to a private life which many, many will go along and subscribe to. And then he talks particularly about Westminster and those in another place in relation to Europe and he says they will have sufficient sense of responsibility. I feel no lack of a sense of responsibility and I would like to think that this House has no lack of a sense of responsibility. He comments that they have right on their side.

**Mrs. Hannan:** Absolutely.

**Mr. Cringle:** Now on whose side is the right? I would suggest to some extent that the Chief Minister was uncomfortable in bringing forward that measured remark when he talks about who has right on their side. And he refers to us, the Island, maybe being out of date with reality. Now again, I cannot accept in any way that having recently been returned at election time by my constituents they find me out of touch with reality. That is not what a constituency does when it returns you people here as their politicians to come up with the law of the Isle of Man.

He rightly commented, about the constitutional objectives which I know very well are appended to the 1981 resolutions - fine, absolutely first class - and objectives which we would subscribe to, and then comes the fear that maybe we would be setting precedents and those precedents would not be too good for the Island, and so he spells on to become concerned over fiscal and commercial reasons in relation to the Isle of Man. 'They must not be eroded' were the words. Now, I would suggest to this hon. House that Government not only has a responsibility for fiscal and commercial reasons,

but the Government of the people, and particularly the Government of the people of the Isle of Man, must have equal responsibility - and it is an awesome word, 'responsibility' - for the moral well-being of the community. Now, I know that hon. members have stood in this House this morning and effectively given to some extent a bashing to religious leaders on the Isle of Man. You may very well, each and every one of you, say that in fact they have over-sold the case and I could go along and quite easily accept the fact that maybe they have gone overboard and there are extremist views on either side; there can be no question of that. But each and every one of you equally knows that, sometimes when making a case forcefully, and again with that word, 'confidence' in fact there is a need to overstate it, to try to sell the point which you are getting across.

Mr. Speaker, it is not my intent to delay the debate or to speak for very long on this issue, but I think we really need to take cognisance also of what my other hon. colleague, Mr. Corrin, said in his remarks when he referred to 'setting standards'. The hon. member for Ayre came across a similar theme when he says we are putting markers down, this hon. House is putting a marker down. My colleague says we are setting standards. Standards for the people of the Isle of Man are very, very important indeed, and it comes down to a simple issue in my book today. I was not here last time; it has not been debated as far as I am concerned, so it is straightforward, straight down the line with no difficulty. I do not have the difficulty that the hon. member for North Douglas, Mr. Corlett, has; I do not have difficulty which the members for Onchan seem to be feeling this morning in 'should they be looking at that balance?' 'Should we be taking', I think Mr. Waft's words were, 'the reasoned argument?' I do not have that difficulty at all, and I am surprised when we have the hon. member Mr. May making his presentation just before lunch, when in fact it appears that he has been under so much difficulty that in fact he has been swayed down the line of commercialism rather than looking at other things as well. It comes down to a strict, straightforward viewpoint in my book. You either stand and accept what you are standing for or in fact you change.

Now, let nobody in this hon. House - and I do not mind whether it is the Chief Minister or anybody of this hon. House - try to put the view across that by standing firm on this particular issue we are letting the Island down and that there will be problems economically for the Isle of Man. Let us not put that case across. The case has been put that way to make you feel uncomfortable that by not supporting the issue you are letting the side down. Now, I want to say to this hon. House: be confident knowing that you are right, knowing that you are setting standards and setting a tone for the Isle of Man, and let nobody fear that in fact as far as the well-being commercially, economically, fiscally or whatever word you wish to use, there is nobody in this hon. House who will fight a stronger battle to try to bring well-being to the people of the Isle of Man in that term, but nevertheless the issue is still clear-cut and I would ask those hon. members who may have been swayed by reasoned argument that that reasoned argument is not yet soundly based because you can still have a firm moral background and fight a very strong economic and commercial case for the Island.

**Members:** Hear, hear.

**Mr. Groves:** Mr. Speaker, this morning it was suggested that a number of members of this hon. House would perhaps

state a view on this issue which in their heart of hearts - I think was the expression used - they did not genuinely believe to be so. I do not think anyone who sat here this morning and listened to the hon. member for Douglas, Mr. May, would not agree with me that he spoke from his heart and the same, I am sure, goes for everybody else. The hon. member who has just resumed his seat is quite right when he says that people have a firm belief and should stand up and say what they think. There has not been any occasion in history where two opposing sides have not thought that right was on their side and they have genuinely believed that to be the case, and I am quite prepared to believe that those who speak for this new clause today, and those who speak against it, genuinely believe what they are saying is their honest view.

Mr. Speaker, when I decided to stand for election for this hon. House, representing the people of Ramsey I knew this day would come.

**Mrs. Hannan:** We all did.

**Mr. Groves:** This is the day when I must nail my courage to the sticking place. All the other reasons for which I or we might have sought election to this hon. House pale into insignificance alongside this particular issue that faces us now. We must have the courage to make a decision today that we know may not please our constituents or at least a large percentage of them, and a decision upon which we may receive in the short term a judgement that I believe might turn out to be the wrong judgement when viewed further on into the future. The Chief Minister, the hon. mover of this new clause, has made it clear that he is not enforcing the doctrine of collective responsibility on the Council of Ministers and is leaving the issue to be decided within this hon. House by what amounts to a free vote. That decision is a testament to the hon. mover's view of the importance of the democratic process of this House and, I believe, is to be applauded. It also places the responsibility for the decision on this issue fairly and squarely on each of our shoulders; responsibility that will remain with us for ever, no matter for how long we sit in this hon. House. In every sense the exercise of authority over others is both a privilege and a responsibility. As individuals responsible for passing legislation that will govern the lives of our people, the people of this Island, that authority becomes even more of a burden.

A Sexual Offences Bill was first brought to the attention of this hon. House, as I understand it, in 1987, and to a great many people, both in the Island and off it, it does seem as if we have been agonising over the question of whether or not to decriminalise homosexuality to allow the unnatural act of rectal intercourse between consenting males over the age of 21 in private ever since, and agonising about it in public. Of course, what must be beyond doubt is that we must make a decision today, a decision for ourselves, by ourselves. Many of us in this hon. House face a sincere personal dilemma over this issue either because of strongly held religious beliefs, personal abhorrence at the thought of rectal intercourse, fear for the future of our society should this hon. House agree to decriminalisation.

As with others, I share all of those feelings and those concerns. My upbringing has been within a Christian family, as it has with most of you here. We try to live our lives according to those Christian principles. Looking at this issue from that standpoint alone it is quite simply a sin and easy from there to be quite certain that we should vote against this new proposed clause, but there are other standpoints.



Before the publication of the Wolfenden Report alluded to earlier by the hon. member for Onchan, Mr. Waft, homosexuals suffered persecution and were treated as pariahs in society. Wolfenden said that public bodies should not legislate for private - I repeat, *private* morality. The Sexual Offences Act 1967 passed by the then Labour Government in Westminster was intended to remove the stigma of illegality to end the persecution; 30 years ago, nearly, is a long time ago but there was persecution at that time. What, of course, no-one foresaw was that during the next 25 years there would spring up an activist movement that would become more and more aggressive about their members' sexuality, a gay activist movement that seemed to seek to force itself into society by suggesting that they are almost an acceptable alternative society. I believe the reality is that this growth of the gay activist movement had nothing to do with the fact of decriminalising homosexuality as a law. It is, or was, as a result of the way society itself in general changed from the late 1960s.

To many people today the activities of animal rights activists, lesbians co-operatives, any ethnic minority group, are just as awful or horrific, depending on which way you view them. All minority groups, without many exceptions, view and voice their opinions very strongly; that is where the expression 'the silent majority' comes from. When one is assailed, apparently from all sides, mainly with one viewpoint you can be sure that there is an opposite view that just happens to be silent. I believe that the majority of people in our Island are tolerant and fair-minded, that this is their natural characteristic, not in any way bigoted, and I believe that what all of us are most concerned about is not what two adults do in the privacy of their own home but that there should be no promotion of homosexuality at all in our society. The Press articles that we have all been sent and read about homosexual areas such as West Hampstead Heath, where men are said to gather for reasons of gratification, only heighten our worries, our concerns, about this kind of activity taking place here, but all of this that takes place, we are told, is in fact in a public place and it is against the law. It would be against the law as far as this Bill is concerned (**Mr. Brown:** Hear, hear) and this proposed new clause is concerned. There is no doubt about that. All that is needed is a determination by this society in the Isle of Man voiced through this House to ensure that we prosecute any breaches of the law.

This is where I think the attitudes of society play a crucial role, again alluded to by the hon. member for Onchan, Mr. Waft. Twenty-five years ago, 20 years ago, 15 years ago even, the attitudes to public morals were very much freer than they are today. The wheel is slowly completing the circle and I believe that the strictness of a law such as the Bill before us and the proposed new clause would be much more stringently observed today. Society demands it. That is a safeguard provided by the people themselves expressed by this hon. House through this Bill.

For these reasons I support the proposed new clause, but there is another compelling reason that we in this hon. House cannot overlook, as we have heard from the Chief Minister and others, that it is this hon. House's commitment to providing good government of our Island and to abiding by international agreements to which we are signatories. You cannot sign an agreement one day and change your mind the next. This argument has already been made here and I will not repeat it, but there is no hiding from reality. If we do not pass and approve this proposed new clause you can all be as certain as you are sitting here that legislation will come to us via the UK Government without any debate at

all. Gestures of bravado, cries of 'Let them dare', are so much hot air. Gibraltar has found that out and is now meeting its international duty and obligations. Why must we learn the hard way? Why put our financially-related business sector and sectors of our economy needlessly at some risk? How can we expect recognition as serious, genuine parliamentarians capable of taking our own place in Europe if we are seen to renege on our international obligations and legal responsibilities? Is that not what Libya and Iraq do?

Mr. Speaker, hon. members, we must take all points of view into account of course before making a decision on an issue of this magnitude, but we are able to exercise fairness, tolerance, common sense and a determination to frame our society to the broad majority's wishes all at the same time. Since I joined this hon. House we have debated the vital importance of retaining our own powers to legislate for our own affairs many times the hon. member for Rushen, Mr. Cringle, has also had that view most strongly and we must never lose it, particularly in view now of the likely changes in Government that are imminent in the United Kingdom. We are on the defensive over this issue, make no mistake about it and have been for a very long time, both with the United Kingdom Government and with the national and international Press. It is very damaging to our Island and it is very damaging to our economy. I do not agree with those who say it is not. This hon. House should end this uncertainty and the questions about our ability and integrity as parliamentarians. We should re-gain the ascendancy and we can do so by approving the proposed new clause.

**Mr. Kermode:** Mr. Speaker, I was not going to speak till I heard the last member of this hon. House speaking, and he has just said that this, our stance, is damaging to our economy. We have just spent the last five years with the same laws with an economic boom in the Isle of Man (**Members:** Hear, hear.) where was the damage to our economy in the five years before this Government (**Members:** Hear, hear.) with the same legislation? There was not any.

Let me also take the hon. member up on another point he made. He said we now have to make a decision for ourselves by ourselves. Let me inform him he was elected here not to make a decision for himself, he is making decisions for the people of the Isle of Man who are important in this issue. Also let me take issue with the Chief Minister, who says that there were members of this hon. House who were returned to office with the same views that there should be a change in the law. Let me also remind the Chief Minister, there were a number of members returned who had the opposite view to what he was saying and what he is trying to do, some of us with 107 per cent. increase on what they had on the first election, which is higher than any other member of this House (*Interruption*)

Let me also say to you, when I was campaigning in this last election this issue was to the fore in my constituency and there were people who were opposed to a change in the law. I am carrying out their wishes. I am here and I said at election time I will not support a change in the law; therefore I will not go back on that. You cannot say one thing at election time and do completely the opposite when you are elected, because the people will soon bring you back down to earth when it comes back to the next election because they will remind you of that fact.

The hon. member for Castletown - he did not have an election so he would not know how the people felt in Castletown to the extent that the rest of us did.

**Mr. Cretney:** Neither did Edgar!

**Mr. Kermodé:** Well, no. (*Laughter*) having said that he has always had the same view, I am afraid, than some of the hon. members in this hon. House who at one stage in elections before this said, 'We would not support a change in the law', and as soon as they got in here they decided they were going to change their mind (**Members:** Hear, hear.) We know a number of those too don't we.

I go back to when we first started this debate when I heard a young mother on the radio asking, begging this Government not to change our laws because of the situation she had in her own private life with her own son and the actions of certain professional people on this Island and her involvement with that son, and she felt that her son was being drawn into homosexuality as a result of this one person. I honestly believe, and if you are naive enough to believe that by decriminalising this act these people... and it is against the law, and it is going to be in this new Bill it is against the law doing certain acts in public, that that is actually going to deter them. It is against the law now and they are still carrying certain acts in public; even with the law being in place today, they will still do it. I will go along with the Chief Minister when he says the people who came over on our national day of parliament and said that they wanted a change in the law and the things and the actions which I deplore that they had at Tynwald Hill. The reason for that was to get the highest possible profile they could for their cause, the same as any group of people would do, but nevertheless, in the eyes of the public it was disgraceful what they did. These were not local people, these were people off the Island; our own local homosexuals, our gay society, were nowhere to be found because they are not interested in the cause of these people. They phoned me up and said they were not interested in the cause of these people; they were quite happy to go along as they have always gone. Nobody has ever bothered them. It is only until this one person who came to live in the Isle of Man and that particular person - when, as I can see that the mover... when or if it goes through, that one person will be smirking and laughing that he has put one over on the Manx Government. He has done it, it was his actions and he has done it, and making a joke out of this Government because of what he has achieved and what he has tried to do. Some of the speeches you heard this person read out on radio were probably not written by himself but written by other people because, knowing him as I do, he never had the mentality to write some of those speeches.

Mr. Speaker I feel so strongly on this issue and I am, as far as I am concerned, a member of this parliament who does care about the Isle of Man. I care in a different way than others, some of you can bury your hand... You have had the economic boom, you can think about the economy, but I think about the moral issues in this issue. It is, as far as I am concerned... and from a letter I have had today from somebody else off the Isle of Man, a parliamentary candidate, who has said the Isle of Man's stance on this issue is right, we should stick it, and what did we say to the public outside, the people of the Isle of Man? 'We have been threatened by the British Government that they will force this upon us unless we do as they say'. How many more issues are going to come before this hon. House and the Chief Minister is going to get up and say, 'You must do this because if you don't do this then we're going to force it upon you'? I say, 'Fight them now', and they are not bravado words or words just hot air, they are what I believe. Fight them now so that when they want to fight something else,

they will know they will have a fight on their hands and they will not get away with it so easy as they think they are going to get away with it. But if you want to lie down and take all that they are going to give you, well, you do it, but do not go back and kid the people go back to the polls and tell the people, you believe in one issue and then when you get elected you do the opposite.

**Mr. Karran:** *Vainstyr Loayreyder*, I would just like to say, the reason why I am supporting this move today by the Chief Minister is simple: I believe in the individual right of petition to the Court of Human Rights. I believe the people have a right to privacy and I think that that is my moral ground. I am not going to get into the morals of the rights and the wrongs and I have not hidden the situation at the last election that I should be supporting that everybody has a right and this Island especially, with being a small Legislature, should allow its citizens to have a individual right of grievance to the Court of Human Rights.

I would say that the only thing I do feel that is unfair is that we have heard criticism of the ones who have changed and actually allowed, in my opinion, common sense to prevail. But they have not highlighted the other members that have changed the other way because now they do not need the responsibility of Government, and that to me shows that that is equally as saddening in my opinion as members who have gone the other way, and I think that that is something that we must remember - that as far as I am concerned I think the majority of people out there the general public they do feel that there should be an individual right of petition to the Court of Human Rights, and I hope and I think you will see at the next general election the people who do vote the way that they vote for the right to allow people to have privacy... because that is what I am voting for - the right to privacy - that the general public will not throw them out, they will see that that is the right way a responsible Government goes. If we want to act like a county council, by all means ignore international law, but if you want to act like a national Government then honour international law, because in my opinion, like the Chief Minister has said, we have not got a leg to stand on as far as this is concerned, and I only hope that people will allow their integrity to vote the right way over this issue.

**Mr. Gilbey:** Mr. Speaker, I would like to start by dealing with the argument that the hon. member who has just resumed his seat has brought up, which is really the argument that if two adults are over 21 they can engage in homosexual acts provided they are in private.

Now, this is really a most extraordinary argument that you can do anything in private. There are many acts which cannot be done by adults in private and are illegal on account of public policy. In fact, this was dealt with very effectively by Judge Walsh, the British judge in the European Court of Human Rights who gave a dissenting opinion in the case of *Dudgeon v. United Kingdom* in 1981, and referring to statements by Lord Devlin he pointed him out as saying that the criminal law of England not only has for the very first concerned itself with moral principles but continues to concern itself with moral principles. Among the offences which he pointed out as having been brought within the criminal law on the basis of moral principle, notwithstanding that it could be argued they do not endanger the public, were euthanasia, the killing of someone at his own request, suicide pacts, duelling, abortion, incest between brother and sister. These are acts which he viewed as ones which could be done in private and without offence to others and need not involve

the corruption or exploitation of others; yet, as he pointed out, no-one has gone so far as to suggest that they should be left outside the criminal law as matters of private morality. I wonder if any hon. members here think things like that should be left outside the criminal law as matters of private morality just because they are done in private.

Then I must say that I do find the suggestion that our attitude could be compared to that of South Africa on apartheid is somewhat amazing. Many members of the United Nations and half the states of the United States of America have laws similar or more severe than ours regarding this matter at the present time.

The basic reasons why I believe that these acts should be illegal are quite simple and can be said quite shortly. Firstly, regardless of morality, they are totally unnatural whether from the point of view of divine creation or natural evolution. Now, it is interesting that the hon. Chief Minister himself accepts this because his own amendment is headed 'Unnatural Acts'. Secondly, such acts undermine any section of society in which they take place. Why else in the UK itself are they still rightly illegal in the armed forces and merchant navy? Indeed, it is interesting that they would remain so under the Chief Minister's own amendment. The reason is quite simple: because it is accepted that they undermine the groups of people in the forces or merchant navy. In just the same way they undermine society as a whole. Thirdly, as the Irish Government made clear in its evidence to the European Court of Human Rights, if such behaviour is condoned in law people who might never indulge in it may be tempted to do so or not prevented from doing so.

**A Member:** Rubbish!

**Mr. Gilbey:** Somebody says 'rubbish', but the Irish Government, which is not, I suppose, a totally irresponsible organisation, clearly believe that to be the case whatever other people may think.

Again, there is no doubt that homosexual acts are one of the main causes of the spread of AIDS with all the tragedy and public expense that involves. This was made perfectly clear in the report of the Select Committee of this hon. House which pointed out, and I quote: 'It is believed that 88 per cent. of these reported cases' - and that was 11,000 plus - 'have been acquired to homosexual activities.' And in fact the hon. Chief Minister himself was a member of that committee and I do not think there is anywhere a statement by him dissenting from what was put in the report on that particular matter.

Now, the hon. Chief Minister has told us - I think this is almost verbatim what he said - that the UK would not fight our case for us and it is only they who can fight it because it is in respect of an international treaty in an international court. Therefore the hon. Chief Minister says in effect no arguments about our case or the rights of our position are worth discussing, and this is despite the fact that, as the hon. member for Ayre, Mr. Quine has explained, there is a case, there definitely is a case, to be put to the Court. But surely this is feebleness of the extreme. The UK's attitude can only have been encouraged by the Chief Minister of the Isle of Man constantly and repeatedly making statements that the law will be changed. All I can say is that if certain other people had accepted such inevitability that things would take place, none of us would have been here today if Churchill had said after Dunkirk, 'Of course, the Germans will come and conquer us.' We certainly would not have been here because they would have come and conquered us. Of course the UK must be greatly encouraged to change the law when

the hon. Chief Minister makes such statements, but he also leads us to believe that he thinks that if we change this law that will be the end of the matter; nothing else will happen. We will change the law and we will not be subject to any further pressures.

I wish this was so but it is a total fallacy, as I can point out. The homosexual activists to whom reference has been made by the hon. member for Ramsey and others regard this as just the beginning. Their aim is the destruction of the kind of society that most people in this Island want. Why do I say this? I have good reasons for saying so. In the autumn of 1990, the hon. member for Peel, Mrs. Hannan, held a meeting at which Mr. Barnett of the Stonewall Group could explain his views to hon. members of this House and another place. In fact only the hon. member for East Douglas, Mr. Delaney, and I turned up. But during the discussions Mr. Barnett made it quite clear that he believed the unions between homosexuals should be given exactly the same legal position as that of marriages between heterosexuals. Then I will quote from the circular with the yellow front headed 'Briefing for Members of the House of Keys - Clauses 9, 10 and 38 of the Sexual Offences Bill 1990 issued by Stonewall.' On page 3 of this document in the first paragraph we have the following statement: 'The real threat for all young people is that they grow up with parents, the law and their schooling telling them that homosexuality is wrong.' Even if homosexual acts were not illegal, I personally believe that the vast majority of members of this hon. House and the public consider they are wrong. Many, indeed most, people, probably all of us, do things that are wrong, but there are not many people who tell the world the things they have done wrong are actually quite right.

On the same page of the same document at the top of the last paragraph it says: 'Homosexual acts in private between two men aged over 21 were legalised in England and Wales in 1967. This has certainly caused the gay community to become more visible.' Thus Stonewall itself admits the very point made by the hon. member for Ayre, Mr. Quine. We then - and perhaps this is even more important - had a meeting called by the Stonewall Group and others at the Manx Museum last year, which was attended by the hon. member for Rushen, Mr. Corrin, the hon. member for South Douglas, Mr. Cretney and I amongst others. Now Mr. Barnett stated, and I quote, that what he wanted was 'the same rights for gays as heterosexuals'. Accordingly they clearly want an age of consent of 16 for homosexual acts so that they have the same age of consent as that for heterosexuals, and this again was made clear in statements in that circular. We have also got to remember that at this time in Holland, a country covered by the European Convention, the age of consent for both sexes is actually 14. I am glad and I knew it would appal Mr. May, the hon. member for North Douglas, that this suggestion has been made. But I would like to ask him and the hon. Chief Minister, and perhaps the hon. Chief Minister will tell us in his reply, what he will do when, as is almost certain, I believe, as certain as I am standing here, the European Court and the European Commission tell us that we must reduce the age of consent to 18, 16, or even 14. (**Members:** Hear, hear.) What are they going to do then? Will the Chief Minister stand firm at that stage or will he still give way? I think that we are entitled to know, because the arguments for giving way then will be precisely the same as the arguments for giving way now, and I believe that we should not do a Munich now and have to stand firm at Dunkirk; we should have the courage now to say we will not give way,

because this is just the thin end (**Members:** Hear, hear.) of a wedge.

The Chief Minister says he does not know for sure whether the Manx public are against the change in the law of the kind proposed by his amendment or not. But a referendum would tell us, and I personally would accept the wishes of the Manx people whatever they are, because I am elected to serve the Manx people. But who refused to agree to a referendum? It was the hon. Chief Minister in the last Tynwald who stood against a referendum and, I think, got the Council of Ministers to vote with him against it. However the Committee on the Sexual Offences Bill 1990, on page 9, in paragraph says, and I quote: 'Nevertheless, of the 60 or so observations received on the Consultative Document, virtually all were opposed to the proposed change in the law which would be brought about by Clauses 9 and 10. Although the matter has not been tested, it seems likely that the grounds for opposing a change in the law which are revealed in the written observations would be supported by a high proportion of those living in the Island.' Now, the hon. Chief Minister was on that committee and I can find nowhere a statement that he dissented from that view, so by his own admission a high proportion of the people on this Island, probably a majority are against this change.

We should ask ourselves, has anything changed to justify a shift in our attitudes? I would say nothing has happened, nothing has changed. There is nothing new that could not be foreseen at the time of the last election, when many of us made binding promises to the electorate. There are no bolt-holes, to quote the hon. member for Ayre, Mr. Quine. Some have tried to argue that we should be in some way influenced by the arrest of people for an alleged - and I stress, *alleged* - offence in Noble's Park, but acts of indecency in public places, if they occur, would be illegal whether we adopted the amendment before us or not. Furthermore, they are illegal in the adjacent isles, as the Home Secretary has stated in his letter of the 20th February to Sir John Wheeler MP, which Stonewall has considerably arranged to be circulated to members of this hon. House. Statements by the UK Government that if we do not change our law they would change it for us are not new; they were known and reported on in the report of the Select Committee to which I have referred. The likelihood of either a hung Parliament or a Labour majority was equally likely before our election. Indeed, that was the very reason why the Conservatives did not go to the polls last autumn.

The hon. member for Castletown raises the point of principle. Who are the legislators of the Isle of Man? When I say 'legislators' I mean people who legislate because they think something is right and not because they are being blackmailed by someone across the water. Frankly, if this hon. House cannot decide on matters which entirely affect residents in this Island and do not affect anyone at all who does not care to come to this Island I believe we are wasting our time and the money of the people in being here. Frankly, if we cannot decide such things on behalf of those we represent we might as well give up and have one MP or a tenth of a Euro-MP.

Finally, this brings us to the question of whether, if all else fails, we should allow the UK to legislate in respect of this matter rather than legislate ourselves. Now, contrary to what some other hon. members may have said, I have no doubt at all it would be better for the UK to ultimately legislate than for the Keys to do so for the following reasons. It surely must always be unacceptable for anyone to be forced to legislate against their wishes and the wishes of those they represent. It is surely a right and common attitude that

we all follow in life that if someone tells you to do something you consider is wrong you refuse to do it and tell them to do it themselves. I believe the same applies to this situation. As has been said, the final results may be the same, but at least Members of the House of Keys can have a clear conscience in this matter.

Now, it is argued that if the UK wants to legislate for us in this matter it would be a precedent for them doing so in other matters. But this is not the case, because this matter is in respect of an international treaty, and the only precedent set would be if there was one and the learned Attorney's advice given to the committee was not at all certain on that nor was other advice certain that a precedent would be set up, but, if it was, it would only apply to matters covered by an international treaty. But I believe there is an even worse precedent if we give way and legislate: that is, that having seen that they can pressurise us into legislating once by threat of doing so themselves they can keep on doing that in the future. Indeed, surely it never pays to give in to blackmail, and that is what this is. It is sheer blackmail that if we do not legislate they will legislate for us. It is not being an ostrich to stand out against a blackmailer; it is a thing that most people should and would do, and I am certain that in the ultimate the public would rather that we stood firm and never voluntarily agreed to something that we consider wrong rather than members of this hon. House caving in and being blackmailed into legislation. I think it was the hon. member for North Douglas, Mr. May, who drew on the example of the 500 in the charge of the Light Brigade. I would say to him that it may be more honourable to go down fighting than to capitulate in shame.

**Mr. Bell:** Mr. Speaker, we have been down some very interesting highways and byways today in relation to this subject.

**Mr. Delaney:** Valley of death would be better!

**Mr. Bell:** I am just a bit confused about the number of the enemy coming in the other direction! (*Laughter*) Virtually all the points that have been raised today we have exhausted, I think, over the last 12 months to the point, really, where very little further discussion, I think, is necessary. But it does concern me, especially bearing in mind the comments of the last two speakers, that we do seem to have lost sight somewhat of what the original purpose of this Bill is.

It is a very simple issue we have to address, one which in all civilised societies should not cause a debate at all and that is the simple right to privacy. This is what has motivated the issue; it is not homosexuality, it is the right to privacy, and this is what generated the European Court of Human Rights interest in the Isle of Man. Once we comply with that right of privacy then the pressure will disappear. There is no question about that. But obviously the issue itself which triggers off this concern is the actual purpose of the new clause that the hon. Chief Minister has brought in, and this states quite simply that we seek to decriminalise sexual acts in private between consenting adults. It relates to a law which has been in existence for a great many years in the Isle of Man and, by common consent, a law which has never actually been prosecuted. Also by common consent, certainly amongst the police, it is a law which is understood to be unenforceable, as has been seen elsewhere. All that is being proposed in the Chief Minister's new clause is to recognise that situation and rectify it, not only then making more sense of the law itself insofar as we no longer have laws on the

statute which we cannot enforce, but also at the same time bringing us in line with the rest of Europe on the right of privacy. It is quite a simple issue; we are talking about the right of consenting adults to carry out certain sexual acts in private. There is nowhere in the Chief Minister's new clause any reference to legalising indecency, to encouraging under-age sex, to prostitution or any of these wild fantasies which have been weaved from Mr. Quine onwards during this debate. There has been a vast amount of misinformation put out by certain individuals in this hon. House, and through the media, which has caused concern certainly outside, fear also.

The point which does not seem to have been recognised, by certain members anyway, is that, as the hon. mover of the Bill himself has said, there are somewhere in the region of 20 new offences being created by this Bill around the new clause which will safeguard all the various fears which have been raised - from prostitution to public indecency to under age sex, incest, whatever. All the fears, I think without exception, that have been raised in this hon. House are addressed in this Bill and will ensure that the very claims that are being made, wild though they may be, will never happen because the law is actually going to be tightened up. All we are seeking to do in this new clause is to grant the right of privacy to certain individuals who are denied that at the moment. It is to put the Isle of Man back on even terms with the rest of Western Europe, because we must not lose sight of the fact that the Isle of Man now is even more out of step with the rest of Europe than when we first had this debate 12 months ago. It is not a very happy situation for what we are supposed to be, a mature democracy, to be in. We have these new measures which are being introduced; they will give more than adequate protection to any vulnerable section of the community.

We have, though, also had reference made to the Select Committee report and alleged claims that the decriminalisation of these acts brought about the end of civilisation, virtually, as we used to know it. It is quite possible that the new members in this hon. House have not had the opportunity of reading that report but it is without question, in all the years I have been in Government, the most biased report I have ever seen come to the Floor of this House. The conclusions which were drawn in that report were so selective as to be meaningless at the end of the day.

They sought to consult with authorities in the Channel Islands, in Cornwall and, for some quite obscure reason, the Obscene Publications Squad in Metropolitan London to try and identify what changes in behavioural patterns took place after the law was changed. The conclusion ultimately was that it brought a large increase in homosexual-related crimes. Now, that is not the case at all, and it says so quite clearly in this report, that in areas similar to the Isle of Man, in the Channel Islands and in Cornwall in particular, there was absolutely no discernable change whatsoever after the law was changed. That was made quite clear, that was evidence which was given to the committee, and that was evidence which was conveniently ignored by the committee, and instead - God knows why - they decided to take the view of certain individuals in the Obscene Publications Squad, which the hon. member for Peel made reference to earlier, as to, as they saw it, changes which took place in the centre of London. Those claims which were made in the report had subsequently been diluted considerably, as the member for Peel has stated.

But the committee itself decided that it was more acceptable to accept the view of the Metropolitan Police and the Obscene Publications Squad than to take any notice of

the views which were put forward by the Channel Islands or by Cornwall or similar rural areas to the Isle of Man, and one can only guess as to why that selectivity took place, and there is no doubt in my mind that the majority of the committee decided on the answer and worked back to the question.

We have heard from several members about how the Isle of Man came to find itself linked to the charter on human rights, how Tynwald in the 1950s was not consulted and the Isle of Man, apparently against the wishes of the Manx people, found itself linked to this human rights charter. Now, it may well have been the case in the 1950s that Tynwald, because of the constitutional set-up of Tynwald at that time, was not fully consulted. But in 1969 Tynwald overwhelmingly voted for Manx people to have the right of individual petition to the Court of Human Rights. Tynwald voted on that after a debate; it was not forced on them.

That right of individual petition lasted until 1976 when someone actually dared to demand their rights - in this case it was in relation to birching - and threatened to take the Isle of Man to the European Court. This was deemed to be unacceptable, that Manx people should actually exert their rights, and the Tynwald of the day in 1976 withdrew that right, and, sadly, that humiliating set of circumstances has applied ever since.

But that is not to say that the subject has not been raised since 1976. Certainly the right of appeal has not been restored since then, but in 1986 a debate took place in Tynwald setting out the then Executive Council's view on our relationship with Europe and the problems which existed which prevented us in effect restoring the right of individual petition, and if I can quote just one paragraph which I think sums it up: 'The Attorney-General has advised that there is only one subject on which Manx law should be amended immediately to comply with a decision of the European Court of Human Rights, and that relates to the law which makes homosexual acts between consenting males over the age of 21, in private, a criminal offence as it is at present under Manx law, although there have been no prosecutions for this offence for very many years. Executive Council has already considered this matter and authorised the drafting of suitable amending legislation to deal with this matter when a suitable opportunity occurred.' This, hon. members, is a statement from the then Chairman of Executive Council who stated in Tynwald on 26th February 1986 that he, with his council, had authorised the drawing up of a Bill to legalise homosexual acts in private. The Chairman of Executive Council at that time was Dr. Mann.

So to say that this issue has just raised its head now or because a certain individual has moved to the Isle of Man is complete nonsense. This issue was raised and started as far back as 1986 under the old Executive Council which Dr. Mann was chairman of and I understand Mr. Cringle was also a member of and obviously party to. So before we go looking for current scapegoats to blame for the situation we find ourselves in we should look a bit more closely to the actions of our own Government here and recognise that we collectively are debating now an issue which should have been settled six years ago had the council of the day had the courage to carry through what it recognised itself to be a serious shortcoming in its international position. So Tynwald certainly has been heavily involved. It is not something which has just crept up on us, it has been round for a long time.

There are just one or two other small issues which have been raised by one or two members which I think ought to be referred to. We recognise that the law itself cannot be

enforced and has not been enforced for a great many years. The argument also, though, that has been put forward is that disregarding that we have to keep the law in place to prevent the spread of AIDS. Mr. Gilbey has accused the homosexual community of fostering and spreading this dreadful disease.

**Mr. Gilbey:** I did not, the committee did.

**Mr. Bell:** Which you endorsed. I would point out first of all, Mr. Speaker - and no matter how many times Mr. Gilbey is appraised of the situation it does not seem to sink in - that by far the largest section of the community which is affected by AIDS is the heterosexual community in Africa where there are many, many, many millions of people infected by it. It is only latterly in the last 10 years that it has found its way into the homosexual community and latterly through drug abusers into the rest of the heterosexual community. So let us not get too blinded to the truth here. No-one knows for sure how AIDS started. What they are aware of is the wide part of the world now which is affected by it, and it is more in the heterosexual community than in the homosexual community, and even UK records show now that it is spreading more quickly in the heterosexual community than in the homosexual community.

It has been stated, I think, by Mr. Quine that there is no evidence at all that sufferers from AIDS are deterred from coming forward for treatment. What he says is probably true, because by the time you have AIDS you have to come forward for treatment whether you like it or not; AIDS is the full-blown disease. Where there is clear evidence of a deterrent for people to come forward is amongst suspected HIV carriers. It can take 10 or 15 years for the disease itself to show in any individual that has got it. So the key players in this, if you were going to stop the spread of AIDS, is to encourage HIV carriers to come forward for testing which would then identify whether they are positive or not and then hopefully they will change their practices to make sure that they do not spread this infection to other people. It is at that point you have got to encourage people to come forward, not when they have full-blown AIDS.

What is happening at the moment, though, is that people in that situation, even if they wish to come forward for testing in the Isle of Man, have got to admit, under the present law, that they have carried out a criminal act which in theory at least carries a life imprisonment sentence. That is the deterrent to people coming out, that is the deterrent against HIV carriers coming to the hospitals or the doctors for the testing. I am not saying for a moment that there is anything wrong with the Manx medical services as far as confidentiality is concerned, but on an issue like this there is bound to be doubts in a small community like the Isle of Man as to how effective that confidentiality can be. They will not come forward with the threat of a prison sentence over their head even with this dreaded disease perhaps hanging over them as well.

So if only from that one issue alone, the greatest health issue of our time, it behoves the Isle of Man Government to take a responsible approach and to ensure that we do decriminalise this act and we do encourage our people to come forward for testing to protect generations still to come.

Mr. Gilbey mentioned one or two other points which I always find interesting from Mr. Gilbey. First of all he stresses the point about it being illegal in the armed forces and how essential it is that this illegality stays because it is undermining the morale of our fighting forces when we are round the world shooting people.

**Mr. Kermode:** It depends how you are shooting them.

**Mr. Bell:** The point of course is, Mr. Speaker, that the UK government itself is currently reviewing the situation, with the thought in the not-too-distant future to actually decriminalise these acts in the armed forces as well and grant forces personnel the same rights as private individuals. So that situation is changing.

Mr. Gilbey is also fond of making this broad generalisation, this broad claim that homosexuals undermine the fabric of society, and he did, I think, say that the aim of the Stonewall Group and other activists within the gay community is the destruction of society as we know it. One has to question the sanity of people who make statements like that or the knowledge that those speakers have of the problems facing currently Manx society. Can anyone, can Mr. Gilbey point to an instance in Manx society where homosexual activity is leading to the breakdown of Manx society? (*Interruption*) Because we do not allow it. Thank you. That is precisely the situation that is in it: we have laws which prevent that sort of thing happening and there will be 20 more laws in the new Bill when it goes through which will ensure that that does not happen.

The one point, though, that we never hear from Mr. Gilbey or from anyone else - it is great to knock the homosexual community, but the biggest single threat to Manx society is not homosexuality, it is adultery. This is where you are getting your family breakdowns, your one-parent families, your juvenile crime, poverty. This is where it is coming from, not from the activities of homosexuals.

Mr. Gilbey and his friends are fine upstanding Christian citizens. It refers in the Bible on a number of occasions that adultery is wrong, but I do not hear any claims coming from these people in this House to do anything to tackle that, and that would be a more far effective way of preventing the break-up of the fabric of Manx society as we know and have known it. That is not on the agenda because it is too widespread, I suppose; it is much easier to have a go at a minority. There is so much hypocrisy involved in this particular debate.

But there are, I think, two issues which basically dominate this debate today. We have two choices. There is the narrow issue of the new clause in front of us which seeks to decriminalise homosexual acts between consenting adults in private which will grant them their right of privacy and which in turn will grant nearly 70,000 people, 70,000 residents of the Isle of Man, the right of individual petition to the Court of Human Rights, granting our own people, at long last, equality with the rest of Europe. It gives us the choice today to end the Manx situation of our own people being second-class citizens of Europe, and that is the situation whether we like it or not: we are second-class in Europe.

But I think on a broader issue there is possibly a more important issue at stake this afternoon, and someone did say - I think it was the hon. member for Ayre - that it was unfair on the new members to be placed in this situation so early on in the new House, that they have to debate this. I think that is complete nonsense, frankly, because the choice we have today, the other issue we have today is one of vision, a vision of the future that this Government intends to pursue, and the choice for hon. members has been well spelt out today between the excellent contribution and presentation made by the Chief Minister, Mr. Walker, and how he sees the way forward and Mr. Quine and his alternative vision. We have a very clear choice as to the way forward, and this is really why it is so important, I think, that the new members

of the House in particular have an opportunity today to nail their colours to one or to the other.

We do have a choice of vision. Mr. Walker, I think, has painted a picture of the Isle of Man developing an open, tolerant, outward-looking society, taking its place on the world stage and certainly on the European stage with confidence and with pride in its own social structures and economic structures. He paints a picture of a mature and caring society, and dare I introduce this dreaded word, compassionate society, because that is the one word that never seems to enter into these debates when we have them here no matter how frequently. Homosexuals are human beings like anyone else and deserve the compassion and understanding of the rest of the community and this hon. House. We need a mature and compassionate society if we are going to provide the quality of life for all our citizens which we have all claimed from time to time.

We have an alternative, from my personal point of view an extremely grim and unattractive alternative. We have the opportunity of turning our back on the outside world, of putting two fingers up to Europe and saying, 'We will not get involved in your game no matter how much support there may be for it in the rest of Europe - the Isle of Man is right and come hell or high water we are going to prove it.' We can turn out back on the changes and developments which are taking place in Europe at the moment. But the price of that is ostracism from Europe, from all the benefits, the trade benefits, the social contacts, everything which is going to come over the next few years. The Isle of Man will be cut off from that, and we must not lose sight of that fact. Our relationship with Europe is the most important issue that this hon. House and this Government has to address over the next few years. If we turn our back at this stage on fostering relationships with the rest of Europe, if we fail to pass this Bill today which leaves us standing aside from Europe there will be a very, very heavy price to pay, and socially in the Isle of Man we will equally pay that price. We will see a bigoted society develop, one which will trigger off, undoubtedly, economic decline and have a society dominated by the parish pump on which certain contributions to this debate today have taken place. We will be going back to the status of little islanders, we will be turning our back on the outside world and on social progress, and indeed on the rights of many of our people in the process.

It may be an attractive proposition to some people, it may be nice to tell the people in Sulby that we are standing up against the demons in Europe, it may play well in those constituencies. For the long-term future and security of the Isle of Man, though, it counts for nothing, and this is the serious choice that you have to make today. It is far more than just this single issue in front of us of changing the law in relation to homosexuality. It affects and will affect our ability to develop socially and economically over many years to come. I hope hon. members will recognise that choice and also recognise that there is no choice if we are to prosper other than to support the Chief Minister's new clause.

**The Speaker:** May I call upon the Chief Minister to reply? The member for Rushen.

**Mr. Walker:** Thank you, Mr. Speaker. We have had a number of debates on this particular issue in this House and in another place. I have to say I think the debate we have experienced today has been the most constructive and I thank hon. members for their contributions. Obviously many of the issues, quite properly, have been repeated, but I think

there have been some new details added today and I would thank particularly those who were elected to this hon. House last November for their contributions. (**Members:** Hear, hear.) I think each and every one of them had something different to contribute, a different point of view, and I think it was well and clearly expressed and I would congratulate the hon. member for Onchan, Mr. Corkill on his contribution especially.

Mr. Speaker, a number of issues have been raised and I think it right that I run through them quickly, but I will try and do it with due haste, sir. Mr. North commenced the debate in supporting my resolution and I thank him for that support, as I do indeed those other members who spoke in support of the stance that I am taking.

Mr. Quine, the hon. member for Ayre, was, I think, next on his feet and he once again reiterated how he felt about the particular issues under debate and he said that the message in my contribution was to cast aside morality, to capitulate, to do as we are told, to succumb. I did not suggest we should cast aside morality. What I did was say I am not entering into the morality debate, into that argument on morality. I do not consider my morals to be any worse or any better than the next man's. My morals and the standards that I live by are something for me, something that I think are important and something that I hope people outside will respect in me, but that is my point of view. I do not say to other people they are any worse or any better than me because they have different moral standards, and one of the messages that came through to me today during this debate was the message from Mr. Quine, Mr. Gilbey and perhaps Mr. Cringle, my hon. friend, that they thought that their morals and their points of view were different and better than some of us who are advocating a change. I would disagree intensely if that was the meaning; it was certainly the message that I received.

Certainly the United Kingdom have stated their position very clearly. Mr. Quine referred to it as sabre-rattling and threats. What the United Kingdom have done, hon. members, is state their position, and there can be nothing wrong with that. What the United Kingdom have done is said, 'We are signatories: we have an obligation.' and they say to us, 'In our view the Isle of Man has also got an obligation: it is a signatory to the Convention.' I have to say I agree with that point of view. I do believe that we have an obligation and the United Kingdom, furthermore, have said that they would wish to see the Isle of Man fulfil its own obligations. If they do not do that, if we do not do that, then they feel a need to fulfil their own obligation, and again I do not think there is anything wrong with that. It is not sabre-rattling, it is not a threat. It is a statement of the situation that is facing us, and I think we are blind in the extreme if we do not recognise that. Mr. Quine again in his, I suppose, usual way went on to say that we were not discussing in fact privacy, it was homosexuality, it was buggery, it was anal intercourse and so on. That may be what the hon. member wishes to discuss. What we should be discussing is the right to privacy. That is the underlying right, the right to privacy, and who amongst us would deny from the citizens, from the community of the Isle of Man that they do not have a right to privacy of their own homes? I have to say that I find the actions of some heterosexuals distasteful and I could describe it as disgusting. I happen to believe that the sexual relations between people is something that should be very private, whether that is male and female or male and male or female and female. As I say, I find some of the actions we see between heterosexuals in our community distasteful, but what they do in the privacy

of their own home is a matter up to them and is something that we should not find distasteful if we cannot see or feel or even if we cannot understand it. So we are not discussing homosexuality and buggery and anal intercourse, sir. It is the right to privacy.

We do have a situation, that what may happen between men and women, husbands and wives, if they do not conform to the usual sexual practices that I suppose most of us understand, could in fact be criminal themselves, in the privacy of their own bedroom. Is that right, hon. members? Just because we personally find something distasteful should that make two people who want to express their feelings in this way into criminals? I would suggest it should not: another need perhaps to change our law.

Mr. Quine says that we would be seen as a small country standing on principle. I do not agree with that point of view and I think I said so in my opening remarks. I do not think we would be seen that way at all.

He tells us that it is his contention, and it was said in evidence to the Select Committee, that homosexuality is a learned thing, it is learned behaviour. I have to say that I sat on that committee as well and I heard the same as Mr. Quine, but myself and Mr. Speaker came to a different point of view on the evidence that was submitted to that committee. Of course evidence can be interpreted in different ways, but I would believe that Mr. Speaker and I looked on the evidence when it was submitted to us and we did not start the exercise by seeking the evidence which supported the stance that we have taken. We were open-minded and I do believe the conclusion we came to as a minority of that Select Committee was a conclusion that many people who sat down and read the evidence would be led to.

Homosexuality is a learned behaviour - a statement from the hon. member Mr. Quine. I must say I was looking forward to a contribution from the hon. member for Garff who has medical knowledge and medical opinion to see whether or not he would support that contention. Certainly I have heard it argued from the medical side that the statement that it is a learned behaviour is in fact not the case.

Mr. Quine went on to say, 'Do we want these people on our streets?' Is the hon. member really saying that people with different attitudes to himself should not even be on our streets? I find that hard to accept, in fact I find it unacceptable.

Then the argument is posed that if we change our law the homosexual act will become accepted, it will become a natural rather than an unnatural act. I do not have any problem with the description 'unnatural act' from where I stand, and the hon. member Mr. Gilbey made comment of that. I do not argue with those words, but I do not believe that things that are unnatural should necessarily be criminal. 'Criminal' is, I think, the word we should just hang on to for a few minutes.

'No prosecutions have taken place', 'a veneer of legality', the law is a means of laying down moral standards' were other quotations that came from the hon. member Mr. Quine. Of course no prosecutions have taken place. The law as we have it at the moment is unenforceable. That in itself should be a good reason to change it. Unenforceable law is a nonsense.

What about laying down standards. Is that something for the law, or is it something for our community? I happen to believe it is something for our community, something for the individuals within our community to build - standards, reputations, morals. Of course things change. The hon. member for Ramsey, when he was speaking, spoke about the change in society, the changes that we have experienced

over the last decade perhaps. How many times do we hear our elders say, 'Things aren't like they used to be.' Quite right, and we will be saying it in 10 years' time, I have no doubt about that, and our children will be saying it in their turn. Of course things change and we cannot stop them changing by not changing our law.

And AIDS - an important part of the debate, I think, although one that I did not mention in my opening remarks. Most of us will have had the experience of perhaps a member of the family or a close friend developing cancer. One of the hardest things for people who are concerned that they are getting into that situation is going to the doctor. It is a fear of the unknown. It is a fear of being told that they have got something that perhaps will be very difficult to deal with. I have not had anybody, I do not know anybody, I do not think, who is HIV positive or has suffered from AIDS, but I can image them having the same sort of dilemma: fear that there is something wrong, wanting to find out about it, but a fear that what they are going to be told is something that they will not like. That is an uncomfortable situation, uncomfortable in itself. But if by going forward, feeling like that, they also believe that a finger will be pointed at them to say that they are criminal because they have been breaking the law, then I think it is an added dimension and I think it is something we should not cast aside lightly.

The hon. member Mr. Quine also suggested the Chief Minister will bow his head if it comes to the reduction of the age of consent, that I will bow my head and say, 'We had better change our law.' The age of consent, as I did say earlier, is something that is very much on the political agenda. It is something that is going to be changed in the United Kingdom. It is going to be changed because they feel their community want that change and it is going to be changed because there are no international restrictions or obligations which will stop them making those changes. I would contend that our situation is different. Our obligation is to the European Court of Human Rights who say that adults over 21 have a right to their privacy, and that is the situation we should be addressing. The thought of the reduction of the age to 14 and to 12 and so on I have to say puts the fear of God into me, as it does to the other members that have suggested it, and I would suggest that there is no way that the European Court of Human Rights will decide that a minor should have the right of privacy to his own family life in that respect. I think the concern is unreal, I think it is a red herring and it is one that is being waved to put us off and to take us away from the main debate.

Mr. Quine also happened to say that the majority of members know he is right. I would just say I for one do not agree that he is right. I think that the hon. member is wrong and I think his arguments are wrongly based, and I would ask hon. members to think very hard about them.

'Looking for boltholes', and he went on to describe a number of the boltholes. I can say to hon. members I am not looking for a bolthole. I know where I stand and my constituents know where I stand. They knew where I stood at the last election and I changed my mind, and I would hope that hon. members, if they find they are wrong on something, are prepared to change their mind, because if hon. members find they are wrong on something and are not prepared to change their minds, then we really are getting into a very silly and dangerous situation. Part of the process of debate is the process of learning and we should in fact be available to learn and to understand different points of view.

I think it is worthwhile commenting on the remark of Mr.

Quine, the hon. member for Ayre, when he spoke about Professor Ganes and the advice he gave to the Select Committee. I think we should understand that the professor was asked if he could construe an argument to support the Isle of Man's law remaining. That was what he was asked and that is what he did, and I have to say I am not surprised. I would expect a good lawyer to work on behalf of his client. The professor did just that.

UK legislation and what form would it be in? We are not certain, is the answer to that question. Indeed it would be primary legislation. My guess is that it would be part of a Criminal Law Bill, but it may not be, it may be a Bill on its own.

I referred in my opening remarks to the possibility of all the main UK political parties having a free vote. That was a free vote on the issue on the age of consent. I do believe that if the particular issue of the Isle of Man and its contravention of its international obligation is to be legislated for, that will not be a free vote. That will be a Government Bill and the Government will expect the support of their party, and that would be whether the Government are the Tories or the Labour Party. I do not believe those hon. members that have suggested that if the United Kingdom legislated for us it would be less harmful for the Isle of Man.

He also - Mr. Quine - referred to me talking about immense damage to our economy. Again, I did not say that. I said that some of the business community were concerned at the thought of the UK legislating for us. That concern has come over to me very clearly. I was interested to hear the contribution from the hon. member who sits in front of me. He expressed that very same concern, and I guess he travels more within the business circles of this Island than I do. Which brings me on to the hon. member Mr. Corlett and I thank him for his contribution. I think he put the case absolutely clearly and stated to us all where he stood.

He was concerned that the religious groups have been so vitriolic and also that the other side of this argument have been so outspoken. I have that concern as well, and I think there is just one other debate, and that was the debate of abrogation, that split our Island community as cleanly as this appears to have split it. I do not like the feeling of our community being split. I think it is unfortunate, but we have to accept, I think, that there are people within our community who have very strong and fast feelings about these subjects, and the fact that people are and have the ability to express those feelings is something we should in fact be very pleased with, very proud about, and we should not, I do not think, demean them.

He did say quite clearly that he thought that our law should prevail, and again that is a point that I tried to make in my opening remarks.

Mr. Brown, the member in charge of the Bill, stated quite clearly that he was in favour of a change, he saw sense in it, and he did outline the fact that there were getting on for 30 new measures in this Bill which would give protection to our society from unsought sexual approaches, and I think that that is a message that we should all be trying to get at.

Mr. Corrin's main theme was the moral decline in our society, his concern that our community was without standards. He said a society without standards is a society in decay and decline. Statements I can agree with. I have to say, though, I do not agree with him that our society is without standards. I think our society, our community has high standards and I think those high standards will stay with us for a long time. Of course they are changing, but it is the community and individuals within it, and there are

people in our Strangers Gallery who are far better than any of us at preaching morality and standards to their flocks - part of their job, a very important part of their job, and I give them all my support for that.

When Mr. Corrin was speaking the thought crossed my mind of whether or not my son needed more protection than my daughter. I do not know why I should have suddenly thought about it when Mr. Corrin was speaking, but I think it was something that Mrs. Hannan touched on when she made her contribution, and it is an interesting thought and I think that it is something that perhaps we need to dwell on. Do our sons, do the males in our community need more protection than the females? I just leave hon. members with that thought, Mr. Speaker.

Mr. Corrin said the law contains a message, that is, of upholding standards. I have to say in all honesty that before this issue was raised in 1983 at Executive Council by the UK Government who said that our law was in breach I did not appreciate that what consenting adults did in private as far as the sexual act was concerned in fact was criminal. I did not know that, and I guess that until this particular debate started the vast majority of people in our community did not know either. So I think we just have to bear that statement, that the law contains a message of upholding standards, we have got to put that into some sort of context.

He also asked the question - I think a very important question - 'Where lies our freedom?' That is what the hon. member Mr. Corrin posed, that question: 'Where lies our freedom?' And I would say in response to that that our freedom, our constitution is based on convention, and that is a convention that we should be strengthening rather than weakening. That is where our freedom lies. It certainly does not lie with weakening the situation of the Isle of Man. And when we hear people talk about thousands of years of democracy and so on, that is far, far, far away from the fact. We have had more democracy in the last 25 years than ever before - something that I look forward to strengthening, and I believe the recommendation I am making today goes some way to strengthening.

He also cited the situation about the Convention on Human Rights and said that, quite rightly, it was signed by the Governor - in those days that was how things happened. It was not put to Tynwald and it was not put through Tynwald to the people. But he did say that he had no doubts that if it had been the people in Tynwald in fact would have supported the Island signing up. I agree with him. I am sure they would have done. No reason at all why not. That was the situation then. I would suggest that today if we were faced with the very same question the majority of people in our community would wish to sign up or continue being signatories to the European Convention on Human Rights.

He also said that the reduction of the age of consent is an inevitable consequence of us changing the law. I have to say that if he accepts that, I do not.

Mr. Corkill did make his maiden speech. It was a good contribution and I have very little comment at all on the content of that speech. The note I made was I agree with all the comments.

Mrs. Hannan also again expressed a viewpoint that is well known to us all. She commented on a letter she had received from Scotland Yard which commented on the report of the Select Committee. I found that interesting. I did not know that letter was in her hand, or, if I did, I had forgotten, but I think the contents of it were telling and they are worth taking note of.

She also made the point, as I said before, about greater protection for males than for females. I wonder, why?

Mr. Waft again spoke in support of the change, made a very interesting contribution and I think a contribution from an angle that the subject has not been considered from before. I think it was worthwhile and I would certainly thank him on behalf of this hon. House.

Mr. May, whose opposition has been consistent to a change, was next to speak. I am pleased that he has decided to support a change. He has told us why. I have to say to the hon. member I know the dilemma that he finds himself in, and if some members pooh-pooh the idea that there was a dilemma, I would just say that I can understand him. He says he has agonised. I agonised as well, hon. members, but I have to say I passed the agony threshold about three years ago and perhaps I have become more used to it. But I do know how he feels and I do appreciate the way that he has responded to the question as it faces him.

Mr. Cringle was first on his feet after lunch, and I apologise to him and yourself, sir, for being a little late. There were two points he did say which I felt were very important. He said, 'The right to privacy is something I can accept and would go along with.' I also heard him refer to the Select Committee recommendation back in 1981 which said that we should be strengthening our constitution and he said, 'I can go along with that'. I think those were the two main points that he made. He then went on to talk about the decline in moral standards and where he stood. I can understand that, but I do believe that for the hon. member those two points, the right to privacy and the constitutional situation should be paramount, and I would ask him to think hard before he casts his vote. He did say that his constituents know where he stands on this issue. I have to say that I am a constituent of my hon. friend -

**Mr. Cringle:** Absolutely! *(Laughter)*

**A Member:** Number 1!

**Mr. Walker:** - and I did not know where he stood. *(Laughter)*

**Mr. Delaney:** You two fellas should get together more often!

**Mr. Walker:** Mr. Groves, the hon. member for Ramsey, again made a contribution. I thank him for it, and he in fact made the point that society itself sets the standards and it is the attitude of society to the morals of the nation which engenders a response.

Mr. Kermode spoke again. I know it is an issue that was very much alive in his constituency at election time.

He takes issue with me. He said the ballot-box did not affect detrimentally those who voted against the change in the same way as it did not affect me. What I said in my opening remarks was that the conclusion to be arrived at out of the last election was that those people who voted for a change were not affected by the vote, by the ballot-box. I did not mention the others because I am not trying to draw any parallels or any conclusion other than that.

He said at election time that he would not support a change, and I just refer back to the situation of what happens if there is a subject which he finds himself to be wrong on - does he in fact change his mind or does he continue being wrong? I would hope the hon. member on occasions would be prepared to learn and perhaps to change his mind if he thinks it is warranted.

He also referred to a candidate for election in the same constituency as he, a candidate who in fact advocated a

change. I would repeat what I said before, that I am pleased that we live in a society that allows any individual who has a point of view to express that point of view freely to our community. **(Mr. Delaney: Hear, hear.)**

**Mr. Kermode:** I agree with that.

**Mr. Walker:** I think that is something very precious, almost as precious as the right to privacy, hon. members.

**Mr. Delaney:** Well, we vote in secret, don't we?

**Mr. Walker:** Mr. Karran supports, as he always has done, and Mr. Gilbey again does not support, as he always has done. He made his usual case, I think. He says, and quite rightly, that there are a number of things that should not be allowed to happen in private, and he listed them, and I can agree with him. But sexual acts between adults, husbands and wives, males and females, two males, in private, behind locked doors - if it is criminal it is unenforceable. What a nonsense. I ask the hon. member to have another think about that principle. I do not think the similes he has drawn are in fact good ones.

There is the situation of age which he mentioned and he also quoted me as saying the UK will not fight our case for us, and they will not. Now then, the hon. member Mr. Gilbey might not like that, but one of the attributes that he concedes I have, and there may not be very many, but one of them is honesty, and if I was to stand here and say that I thought the UK would fight this for me would that make it better? I would suggest it would not. What I have done in my presentation and in all the arguments that I have made, public and private, I have tried to state the case as I have seen it and I do not take back one word.

So we come to the conclusion of the debate, rounded off by Mr. Bell who again, I think, set out the situation as he saw it.

I would conclude, I think, by saying to hon. members that I appreciate the way that this subject has been debated. I know it is not a subject that we would all enter into conversations with with our best friends, but from time to time we have to face issues such as this and I am pleased that this House of Keys has faced this issue in the way it has.

I hope that hon. members will support the principles that are contained in the two clauses that have been circulated in my name. I do believe the interests of the Manx people will be best served by getting this issue out of the way, put behind us, so we can go forward to our next problem. Mr. Speaker, I beg to move, sir.

**The Speaker:** Hon. members, the motion before the House is that the new clauses in the name of the member for Rushen, Mr. Walker, which have been circulated and which are entitled - 'Unnatural offences' and 'provisions supplemental to (Unnatural offences)' be approved in principle. Will all those in favour please say aye; to the contrary say no.

*A division was called for and voting resulted as follows:*

For: Messrs. North, Walker, Brown, May, Corlett, Downie, Mrs. Hannan, Messrs. Bell, Groves, Karran, Corkill, Waft and the Speaker - 13

Against: Messrs. Gilbey, Cannan, Quine, Dr. Mann, Messrs. Corrin, Cringle, Cretney, Duggan, Delaney, Kermode



and Gelling - 11

**The Speaker:** Hon. members, the motion carries with 13 votes cast in favour and 11 against. We will now move on to the clauses stage of those selfsame clauses which have just been approved in principle, and I would suggest that the hon. member for - I think we might pause while the Public Gallery empties.

**Mr. Delaney:** Could you explain to the Gallery that this resolution, Mr. Speaker, is not finished. That is the principle we have gone through. There is a lot of debate on the clauses.

**Mrs. Hannan:** If they genuinely want to go, that is up to them.

**Mr. Delaney:** It seems to be a *fait accompli* on that end.

**The Speaker:** The member for Rushen, Mr. Walker, I wonder if I could call upon you to take each of these clauses separately and perhaps you could start by taking the clause which is entitled 'Unnatural offences'.

**Mr. Walker:** Thank you, Mr. Speaker. I rise to introduce the first of the two new clauses that have been circulated in my name. This particular one, the first one, replaces Section 11 and Section 12 of the 1967 Act. Those relate to buggery and gross indecency, and it replaces them with the following amendments, that is, the offences are limited to where either person is under 21 or the act is elsewhere than in private. We alter the maximum penalties. A new offence of procurement to commit non-criminal buggery is created, and the sexual act with an animal is omitted as it is covered by Clause 10 of the Bill that is in front of us.

So sub-clause (1) makes buggery with another person an offence provided that either party is under 21 or it is committed elsewhere than in private. In private is explained in some detail in the next clause. So the homosexual act is not an offence if committed by consenting adults in private, and it is worth noting that consent is required because the act is otherwise rape under Clause 1 of this Bill.

Sub-clause (2) makes the offence under sub-clause (1) indictable, that is, triable by jury only and prescribes the maximum penalty. At present it is life in all cases, but the maximum is reduced to 7 years if the victim is 16 or over. It is interesting to note that in England and Wales the maximum is life if the victim is under 16 or a woman; 10 years if the victim did not consent; 5 years if the offender is 21 years or over and the victim is under 21; and otherwise only 2 years.

Sub-clause (3) creates the new offence of procuring a person to commit non-criminal buggery with a third person. At present a person who procures the commission of buggery is himself guilty of the offence, I am told, as a principle in the second degree. But a side-effect of decriminalising acts committed by consenting adults in private is to remove any sanction against pimping of homosexuals. We should note, I think, that as a matter of principle the act procured need not be criminal for the procurement to be an offence. Procuring for the purpose of prostitution and procuring a person under 18 for sexual purposes are offences under Clause 15 and Clause 16, although the object is perhaps not criminal. The maximum penalty is four years as compared to two years in the United Kingdom. The maximums under this Bill generally in fact are higher than in the United

Kingdom, and that was a recommendation arising out of the first Select Committee's report.

Sub-clause (4) makes gross indecency between men an offence provided that either party is under 21 or it is committed elsewhere than in private. So such acts are not an offence if committed by consenting adults in private. Consent is required because the act is otherwise an assault under another provision of this Bill. The maximum penalty is four years. In the United Kingdom the maximum is two years, although where the offender is 21 or over and the victim is under 21 the maximum, I understand, is 5 years.

Mr. Speaker, I beg to move that the first new clause be part of the Bill.

**Mr. North:** I beg to second, Mr. Speaker.

**The Speaker:** Thank you. The member for Douglas East.

**Mr. Delaney:** Mr. Speaker, first of all, having now got to the real substance of this debate, the clause itself, the part that will go into legislation, not the principle but the real law which will apply to the Manx people and anyone who visits this Island, I have a number of queries to raise, having listened particularly with intent to the wonderful speeches by the new members in relation to their position on the principle. Now, we get down to how it works for everyone on this Island. this law.

I would like to ask the Chief Minister who is moving this new clause - as we have made a big play of the fact of the privacy of two persons and that it is wrong to interfere with their privacy, which a lot of us would support in theory, but the principles of life are much more difficult to substantiate, I would like to know the first question at 21 years of age where, as we know in this Island and always have had, but particularly in modern times which he referred to recently, how do we identify two persons who willingly under the age of 21 commit acts of gross indecency in private in the privacy of their own home? Who is there, if there is no victim, which there obviously is not if the two of them agree to it, but they are under 21 years of age? We made such a big play of not enforcing the present law, how do we enforce this law? (**Mr. Kermod:** Hear, hear.) Will somebody who has this great intelligence of this wonderful panacea of this life we are entering into tell me how that is possible? Because there would have to be a complainant to the police under this legislation, as there would have to be, possibly, under the law at this moment in time we cannot implement, and we know of the reluctance because it has been referred to by the supporters of the principle. What is to say that two 17, 18, 19, 20-year-olds cannot engage in gross indecency or the homosexual act in privacy now? Because there will be no reason, if they are both consenting to it, to actually interfere with their action, and when I hear only a short time ago of the wonderful results of the Wolfenden Report in 1957 and I look at this new clause I wonder whether or not the intelligence, limited as it might very well be of us few more pure mortals, where we have the situation of what was so wonderful about that report that everyone takes as a wonderful bible virtually of the sexual activities of the British and the Manx, because the actions in the Wolfenden Report, particularly in sexual offences, did nothing to solve the areas that it was designed to cover. It certainly did not in prostitution. It is more prevalent on the streets now in Britain than it ever was, and on this particular act it never resolved the problems of the homosexuals in Britain in reality. In theory of course, which

is the substance of a lot of political thinking, it might have done, but it never resolved their problems. But I want that question answered. How now do we police under 21-year-olds engaging, in the words of his own clause, 'Sexual Offences Bill 1990, Amendments moved by Mr. Walker, Unnatural Offences', and then when you go down it to find that we are legalising it if you are over 21 in private, but if you are under 21 and you engage in it, as we cannot get to find out whether you have done it because you have agreed to do it, how do we police it?

**Mr. Kermodé:** You cannot.

**Mr. Delaney:** Of course it is one of the flaws in the British Act as well and one of the reasons they have had so many problems with homosexuality, and I am the first to recognise that: the result of not thinking out the long term.

I would also like to ask the Chief Minister, now that he has got the consent on the principle of this clause with the support of the wonderful speeches of the new members - which I agree with; I thought it was well thought out, well written and well read - but I wonder now when we get down to the reality of dealing with these things how the Chief Minister recently minutes ago can tell us that now that we have this 21-year-old here who both agree over 21, having achieved that birthday - an act of fate if you like, more than anything, certainly an act of two heterosexuals - that they then come to the decision that we have waited to get to 21, that in Manx law when you are 21 you are classed as being an adult, but for other parts of law - and the responsibility, by the way, Mr. Speaker, of your parents until you are 18 certainly - but we find that the situation in Britain that we have just recently minutes ago said will not affect us and the European Court will not affect us at 21 - this is what was said, that this will be the end of it - I want to know does the Chief Minister honestly believe that in a society which he himself has identified is changing so quickly, that we in this Island, if we pass this clause which is the hub of it, that the members of this House in the lifetime of this House will not find ourselves in the same position of having to, because of the common purpose which is the attention of the Common Market, which is the intent of the European Conventions, that we will not be obliged, through our situation in relation to our foreign policy with Britain, not to comply not only with the present 18 years of age for homosexual offences in Britain but for any amendment that the incoming British Government might agree to? Where has he got this guarantee from? Where will he guarantee now so that all the new members particularly will know that this is the last final act that they have found themselves reluctantly, as they have said, all of them, in their speeches, reluctant to find themselves having to pick up this cudgel and support the principle? Tell us quite clearly that you, sir, have an undertaking that we have got to go no further down the road or that if we do have to go further down the road, if you cannot substantiate that, that we find ourselves in this House that you will expect all the members who voted for the principle of this clause and will support this clause which you are asking for now, that you will not be asking them to support, on the same arguments you have put forward, the age of consent being reduced, for the two reasons I have given. One is we cannot police it and, secondly, because we will have to do it because our foreign policy and the agreements we have made with Europe through our relationships will be imposed on us, and this is getting away from the point of whether it is moral or it is immoral - your argument too, sir, just the common politics

of it, the relationship between us and Europe the relationship between us and our parent principle.

Would you also, please, Chief Minsiter, when you speak to your ministers at some time who make statements in this House asking who legislates for the Isle of Man, ask them to identify the situation that we legislate by pure consent from Britain, and that has always been the case, and the idea we are giving to the public on this clause is that we somehow have a choice. The Bills that come to this House are passed from one point or another to Britain first and they have to receive Royal Assent. We know that and those members who have any time here know that. Maybe some of the new members have not had the opportunity to realise where that puts us politically. This clause is no different, and I will ask the third and last question, because this is all I lastly want to say on this, which is that we accept that when this new clause goes through for Royal Assent it is automatically going to be accepted by the incoming, because that is when it will get there, if it is a Liberal/Labour pact or the Labour Party pact or even the Liberals have a magic, wonderful successful win and they get the majority of the House of Commons will they accept 21 years of age, given the statements that they have made in their manifestos and which they have stated? I want them answered so that - not me, because I know where I am voting; contrary to what the member for Onchan said, we know why we are voting our way - but the new members who this afternoon and this morning have had the position of putting their words, nailing their flag to the mast, to make sure the flag does not come down and smother them.

I am against this clause. I am not going to go through the ramifications we had in the last Government and we had before that. I will say this. Reference was made by the hon. member for North Douglas and two other members to the charge of the Light Brigade. We all laughed, but in actual fact - and like this part of British history or, in the jargon of the barrack room, the cock-ups of military history - the fact of it was the charge of the Light Brigade under Raglan, Cardigan and the others involved, if anyone knows about it, when you have over 600 men going down a valley in the manoeuvre they were in, they could not turn back, and I want to make sure particularly the new members know that while they are going down this valley, and I think it was more relevant than the hon. member recognised. The only way they could go was go forward and that was to face the Russian guns. I think in this particular clause we are being led down that valley, we are going to have to face that gunfire, and I wonder who is the hero who will be able to turn that charge before we come under fire? I do not believe it is manoeuvrably possible, if we accept it as it is now, and I do not think it is possible that we can survive the fire that is coming at us.

I am against the clause, not on the moral grounds which everyone wants to go on, but because of the common, practical politics of it. The politics are we are being told what to do because of an arrangement made by an undemocratic system of government, which has been referred to, which we are committed to by history, not by the will of anybody.

We all have, at times, had to change our mind, but there is no argument, not one argument, that has been put forward by anybody here or in all the time we have been here that has actually changed my view that this step will not help the homosexuals of the Isle of Man who have always been with us, and I have that as a mandate from the people I represent, because the mathematics given by all the professionals was 10 per cent. of the community for homosexuals. My colleague and I therefore should at least have had 300 votes



against us if it was going to help them. I know it was a fact as he does. I had as many homosexuals in my constituency who came out to support me, because I know from the commitment they gave me, because they know my view. It is not for their individual betterment (**Mr. Cretney:** Hear, hear.) They can survive in our society, but they believe that this clause with this sort of non-workable system will damage them. I believe that, I honestly believe it, and I have not got to wrestle with my conscience any more because that was the mandate I was given by the people I know of this sexual persuasion who came to see me knowing that I could understand their feelings on this issue, not by people who come across the water and want us to be the same as them. I am against this clause.

**Mr. Quine:** Mr. Speaker, the clause we have before us - the first point that I would like to make on this is simply that if, as those who have approved this amendment in principle, if, as they have said, sir, the old provision, the existing provision in the 1967 Act regarding the act of buggery, if that was worthless and, as they have argued, should be taken off the statute book, then, like my colleague from East Douglas, I must ask why are they putting this one on? If that really is their viewpoint, then they should be saying, 'Carry on, go ahead.' The same standard applies. If - and it is their contention - if it was impossible that the old offence should have been, as they said, taken off the book because it was unenforceable, well, I presume the same constraints apply to this one, but more so because this arbitrary limit of 21 will make it more unworkable, even more unworkable, sir, for the very simple reason we will not be able to contain it within that age parameter. I have said it again and I make no apology for repeating it - this clause will provide a veneer of legality that will allow them to come out of their closets and have access to the under-21s. That has been the UK experience. I gave you the Home Office figures, I showed you that we had a 60 per cent. increase and the vast majority of those relate to under-21 activity. They have to because the other part of it has been decriminalised.

So before we approve this perhaps the mover could explain to us what is the difference and can he explain to us how it will be different? Having said this is all right in principle, it is okay, it is an acceptable practice, how is he then going to control it and constrain it to people over 21? I do not think that is practical. You open the door a little way and you will have the same movement in your crime figures as you have had in the UK. You will give them an excuse to operate relatively openly and those that are under 21 will be drawn in. It is as simple as that.

The second point that I would like to make is it has been suggested that you can go ahead, approve these amendments because there is ample protection in the new Bill, that new Bill is going to transform everything and what is in that new Bill is going to make it absolutely foolproof in terms of enforcing it. Not so. What is in the new Bill is not substantially different from what is in the UK law now. A number of what the hon. mover referred to as new offences are in fact consolidation and there are a small number of new offences. It has been always available to us to make recourse to general provisions for many of these offences that are in that statute, and it is misleading to hold out to this hon. House that there is no problem now - we have this Bill coming in, we have this long list of new offences, it is no problem now, you can rest, you can sleep easy in your beds. Not so. The same problems will arise and the substance of what has been held out to us as being new material is

simply a variation of the theme.

The third point that I should like to make reference to is the fact that before members, and I repeat it, before members approve this Bill, before they approve this amendment, have regard to the fact that it is a holding action. We will be back dealing with an amendment to this Bill in the relative shortterm. It will not stay at 21, it is not going to stay at 21, so if you are going to sanction this activity, do it. But do not pretend that somehow you are going to be able to hold the line at 21: you will not, you will not be able to hold it at 21. So do it in the realisation, your realisation, and tell those you represent outside, tell them that you will not be able to do it. Be honest about it at least; be honest about it.

The fourth point that I would like to make before I sit down on this particular amendment is it was said in the main debate, and it is very pertinent now that we are on this clause, 'Let us be done with it.' Do not approve this clause if you really believe that you are doing it to be done with it. You will not be done with it: you will be back here on the same issue very shortly. You will be on the end of another string and you will be getting pulled up and down in the same way as we are in regard to this one. It may be expedient for some people to hold out that promise, to hold out that pretext, but it is a pretext. In truth we will be back discussing this issue. Thank you, Mr. Speaker.

**Mr. Brown:** Mr. Speaker, we are now seeing at the clauses stage the fight back and some scaremongering or trying to muddy the picture a little bit, and can I just say that I think the debate in principle in fact laid out very much the feeling generally, I believe, that people genuinely believe.

It was said why and how do we ensure the age of 21 in private can be policed? That is the question and there were lots of heads going, 'Oh yes, how are we going to do that?' Well, I would suggest the same way as we try to enforce illegal sex with under 16-year-olds, incest, prostitution - all those things. We can only make the law to try and set a level of acceptable standards within the law that we, representing the people of this Island, in fact feel is acceptable within the Island. So there will be no difficulty in that area no more than if, for example, there is incest going on in a home. The same problems if, for example, there is a person under 21 involved in private - then the people involved in that are breaking the law, and all we can do is write the law based on what we believe is an acceptable way forward.

I have to say that I am somewhat saddened and surprised at some of the comments and indications by some of the members in this hon. House who I believe are very much for the rights of the individual, and I look at my colleague the hon. member for South Douglas, Mr. Cretney, who I am sure would be the first standing up if in fact there was any persecution of an individual whether homosexual or otherwise. I just say that because that does surprise me. But that is his point of view, that is his vote - I respect it.

But could I just say Mr. Quine said about this point about under-21s and breaking the law. Again, whatever law we write, whether it be traffic law, whether it be law as this is, there will always be people who will try and break that law. What we can do is try to ensure that we make laws that set levels that are acceptable, and the job of policing that is not with us, that is with the police. I believe that we have now got a situation which we are accepting.

One other point I would just like to make is that Mr. Quine made the point that I had indicated that there were many new offences in this new Bill and he said, 'No, no, not so, they were only consolidation measures. Well, all I

can say is the words of the Legal Draftsman time and time again, which I looked up carefully before I sat down and worked out how many new offences there were, the Legal Draftsman says time and time again 'extended to cover male as well as female', 'extended in some cases to cover female as well as male'.

**Mr. Quine:** So it is not a new offence.

**Mr. Brown:** It is a new offence.

**Mr. Quine:** Extended.

**Mr. Brown:** Extended, exactly, extended because before there was no law covering an offence where a male was involved. Therefore the Bill has been made and written to extend that protection whether it be male or female, and again I would just make the point - and we will get to it as I go through the Bill later - in the Bill we have done as much as I believe people expect of us to ensure that in public places that sort of behaviour, whether it be by heterosexuals or homosexuals, would not be acceptable. But we will get to that later.

I would urge members to support the clause in the name of the Chief Minister as I believe that it is the right way forward for the Isle of Man.

**The Speaker:** The hon. member for Rushen, Mr. Cringle. Hon. members, just before you speak, I know it has been a fairly long day and an important day but could you please keep your voices down so that the people who are addressing the House can be heard properly. The member for Rushen.

**Mr. Cringle:** Yes, Mr. Speaker, I can understand the debate as it has evolved and I pay tribute in fact to the way in which the principle debate was actually handled and can understand the result. However, I feel it is incumbent that at this particular stage now, as has been pointed out, we are down to the nitty-gritty, we are down to approving or rejecting the piece which will become the legislation of the Isle of Man. I think it is incumbent upon us to take stock yet again outside of the principle debate and consider it quite seriously and separately, and again I am not going to go on at length. I think members will probably know exactly what my stance is and exactly what I am going to do.

I concur entirely with the member for East Douglas that this in fact is a piece of legislation which, similar to other pieces of legislation, will lead us down the wrong path and in fact will be unenforceable (**Members:** Hear, hear.) It is political expediency. (**Members:** Hear, hear.) It is unfortunate, but that is the way it is.

Now, in the principle debate the hon. member for Ramsey, Mr. Bell, was rightly commenting that we should not only look at this particular measure of the homosexuality clause, that really members of this hon. House should be looking wider afield and looking at adultery and other such matters and he says nobody takes much notice of that. If the hon. member wishes I can show him quite lengthy chunks out of Hansard when in fact the very question of adultery has been argued and quite fiercely argued and if you happen to turn up the legislation which made divorce easier you will find that some members in this House, myself included, spoke quite strongly against it on the grounds that it was leading in fact to single-parent families and the break-up more easily. I can turn the hon. member to other clauses in relation to gambling, in relation to alcohol and many

other what people do see as social ills. It is easy to take my stand, it is easy to take the opposing stand.

Now, it is difficult for me because my hon. friend and colleague - and, Mr. Speaker, he is my friend and he has been a long colleague - the Chief Minister is taking the opposing view to my own view.

**Mr. Delaney:** 'We are just good friends!'

**Mr. Cringle:** The hon. member for East Douglas can make light of that if he likes, but I am being perfectly serious, Mr. Speaker, and I mean genuinely serious. We have lived in close proximity for a number of years, grew up man and boy, and in fact grew up man and boy with my other colleague who is in between us, and I know exactly how they live their lives and I know exactly the feeling which the constituency holds in regards to their morals, I know that, and there is no ill-feeling between us in regard to that measure at all, no ill-feeling at all. But I just simply say to my hon. colleague that in fact this is something on which we are going to be on opposing sides. I quite firmly believe - and I do not want anybody in this House to have any other view in relation to what they think I feel - I firmly believe that you can on this issue hold a very moral stand and it will not damage the Isle of Man, if you are confident to go forward and hold that flag forward to the Isle of Man whether it be to the business community that the hon. member for North Douglas refers to or in fact the hon. member for Ramsey, Mr. Groves, refers to. Neither of those need have any fear that in fact holding this line will have a deleterious effect on the commercial life of the Isle of Man. I do not accept that as an argument and I believe we could still have a vibrant, booming economy in the Isle of Man and hold this line.

**The Speaker:** Does any other hon. member wish to speak? The member for Glenfaba.

**Mr. Gilbey:** Could I raise a point, Mr. Speaker, with the hon. Chief Minister? He suggested earlier that three of us felt we were on a higher moral plane than he. I do not feel that at all and I would like to assure him of that, but I do think there is a question that we need a very frank answer to. We all know that we are really, if this goes through, doing it because of pressures from the European Court. I think, if we are all honest, this would not be happening but for those pressures. Now, we are putting in an age of 21. How can we possibly be sure that they will not say that the age should be reduced to 18 if it is in other countries? How can we be sure? Because 18 is still an adult age. How can we be sure that they will not say the age should be 16? I will not go down to 14, but 16 is the age of consent for heterosexual acts and whatever anyone may say, there is no doubt that the homosexual militant groups have made it quite public that they want the ages to be the same. Now, my good friend the hon. member for Peel has said that we should perhaps raise the age for females. Well, I think that is unlikely for women.

So therefore there are, I am certain, going to be pressures for the reduction of this age to 18 and then possibly 16, though the hon. Chief Minister says, 'No, no, that won't happen.', but on what grounds can he be so sure, and, secondly, if it does happen, how is he then not going to give way when we are giving way now?

So I think we are entitled to an answer from the hon. Chief Minister on this, and an honest one, because, as he says, I do think he is honest, as he said himself.

**Mr. Corrin:** Mr. Speaker, I do not accept that anyone in this House has wished that this subject has come our way, but come our way it has and we must deal with it, and it is perfectly legitimate to express views and debate the subject and not have comments like 'red herrings' and so on.

Now, it is a fact of life that just as the argument was put before that the law was unenforceable, we have moved on a bit now and one can see a slight change of opinion and so on, but now you can swing it around and when it comes now to say 21, now those who were expressing the alternative view before, it is quite legitimate to say now to those who propose change, how do you intend to enforce that statement, how? Now, if you honestly say that it is unenforceable, I will accept that; it is honest and that is the end of the matter. But to pretend that it is enforceable when in fact it is not, then that is not a correct and true statement.

Now, let us take some practice. Can you imagine a chap whose birthday is next week and he is in a compromising situation and he says, 'Hold on, Willie,' (*Laughter*) 'my birthday's not until next week.' (*Laughter and interruptions*) I will have a different name, Mr. Speaker: 'Hang on there, Tom!' That is the reality of the situation.

But there is another serious part to - of course it is serious but after a long day I think we can have a little bit of a laugh, shall we say - the second part then is we have this age of consent of 16 for females. Now, quite frequently we read of cases where someone has been prosecuted for having an affair - I will not go any more than that - with a girl under 16 and reasons are given by the lawyer in the defence that she was only 14 but she looked as if she was 16 or she looked as if she was 17. Now, if you take that same scenario, can you imagine any prosecution, anyone standing up and saying, 'Well, he looked 21.' (*Interruption*) It does not stand up, you say (*Laughter*) Mr. Speaker, it does not stand scrutiny, it does not, honestly, it does not, and if the principle is breached, if the law is changed and if it is in defence of someone who is 18 - I am talking about males now because people see men. After all, you go into a pub at 18 and you can fight for your country at 18, who is really going to be bothered? That is why I would say in all honesty, as I did say earlier today, if the law is changed, then that is it.

Now, it could and it no doubt will be lowered to 18 and then of course it will be a case of, 'Well, he didn't look 18.', so we will be down some years below that. That is the reality of the situation and that in fact is how it works with girls under 16, and of course then the law gets a bit more liberal, you get the lawyers coming in pleading the case and so on and you get people being let off the hook when the girl was 13, and it happens. Now, that is not a fancy scenario; that is in fact happening.

So all I can say to the hon. mover is what you are really saying is just get inside with the law as it is in the UK and call it a day and admit that the enforceability part of it is just an utter nonsense, and at least I will accept that regretfully.

**Mr. Cretney:** Mr. Speaker, I do not intend to take any great time but just one or two things.

First of all I do not intend to respond the remarks of the hon. member for Castletown because if I wished to do that I would be responding previously to the hon. member for Ramsey, previous to that to Mr. Shea, previous to that to Mr. Moffatt. For the last two years my position has been under attack for some reason. I seem to have been singled out as somebody who should not be promoting in this House and elsewhere what I perceive those people who put me here

wish to see me doing in here, and I am not going to get into the position again of having to defend that, because I was elected again in November last and I got the second highest number of votes on this Island, (**Mr. Delaney:** Hear, hear.) so I have no need to defend that, and prior to that, both via the newspaper and via a correspondence with constituents, I have given them the opportunity if they thought that I should change my position and I tried to explain to them the difficulties that arose, and I was the only member who did that via the newspapers, but people were content that I should maintain the position I have. So I have no reason to try and defend that to the hon. member for Castletown or anybody else in here.

The point I wish to make is that the member for Castletown spoke of other offences which are included in this legislation and the difference to me is that, as the hon. member for East Douglas outlined, if two persons under the age of 21, presumably by agreement, wish to go behind closed doors and do whatever they do, the fact is that there will not be a victim in those circumstances, but in a number of the other circumstances he outlined there is a victim (**Members:** Hear, hear.) and as a result of that prosecutions can be achieved. That is the difference.

**Mr. Brown:** It would still be illegal.

**Mrs. Hannan:** There are points that have not been covered or at least have been mentioned but have not been satisfied in the discussion. In the amendments to the new clauses proposed there is not a defence, whereas in some of the other cases that we have discussed before - Clause 4 - there is a defence, and clause... I am not sure, but there is another defence as well.

**Mr. Kermode:** We are on this clause now.

**Mrs. Hannan:** Yes, but we have a defence under Clause 4; if you can look at Clause 4 there is a defence. Clause 4, subsection (3), there is a defence. In this there is not. So if two people were under the age of 21 and they were indulging in acts of buggery, whether it was in private or elsewhere than in private, it would be an offence.

Now, are members of this hon. House saying that because an act of, say, incest takes place and because we do not know about it it should not be an offence? There are very few cases being brought before the court of incest, people taking advantage of their children. This is why we have legislation, to protect the weak and the vulnerable, and surely that is why we should be still having this piece of legislation in, so that people under the age of 21, if they are taken advantage of, whether one or both people are under the age of 21, or one is under the age of 21 and the other is not, it is an offence, and in a case such as that if advantage is taken by one person, whether that person is under the age of 21 or over the age of 21, then it is an offence. (*Interruption*) If one person is under the age of 21, yes, it is.

**Mr. Delaney:** No, both.

**Mrs. Hannan:** Both, yes.

**Mr. Delaney:** There is no victim.

**Mrs. Hannan:** There is no victim in a homosexual consenting act.

**Mr. Delaney:** You cannot police it.

**Mrs. Hannan:** But some of your group have been arguing today that there has been and the law should not be changed. I would suggest that the law as this stands, under the age of 21, there is no defence, so if somebody takes advantage of somebody under the age of 21 or even where both are under the age of 21 it is still an offence, because no-one under the age of 21, a male, can consent to homosexual activity. That is what this legislation is saying.

**Mr. Delaney:** But they do.

**The Speaker:** Hon. member, please.

**Mrs. Hannan:** It is the same with heterosexuals, Mr. Speaker - no female under the age of 16 can give consent, whether it is with a male or female; there is nothing in law to say that person can give consent. Now, members of this House might not like that, they might consider that it is wrong under the law. We are discussing the law and that is what the law says.

**Mr. Kermode:** Mr. Speaker, we are missing the whole point here, and I was not going to speak, but the point of the matter is we are trying to get to the bottom of if you have two people (*Interruptions and laughter*) - I am going to be very careful; it is a very serious matter - two people under the age of 21 who are consenting adults, two consenting adults who are 18, it says here, 'Unnatural offence', a person who commits buggery with another person, whether he or the other person is under the age of 21, elsewhere than in private, it is an offence. So therefore it is an offence even if they were consenting it is an offence. (*Interruptions*) yes, right, the very -

**The Speaker:** Hon. member, will you please address the Chair.

**Mr. Kermode:** I will do my best, Mr. Speaker. So therefore the very foundation of the argument against changing this law was, why do we still have a law on our books that cannot be policed? And now you are going back to the same thing: you are going to produce another law that cannot be policed. How are you going to police this one? We want to know.

**The Speaker:** May I call upon the (**Members:** Hear, hear.) member for Rushen to reply?

**Mr. Walker:** Thank you, Mr. Speaker. I think the questions that have been asked in fact are very few, very few indeed. We have been experiencing if you like a rearguard action, and that is not surprising either. (*Laughter and interruptions*)

**Mr. Kermode:** You will have Willie on the patrol again!

**The Speaker:** Hon. members.

**Mr. Walker:** Mr. Delaney, Mr. Speaker, asked a very pertinent question about Royal Assent, and he asked the question, will it be acceptable? He is absolutely right in saying that Royal Assent will be sought after the UK general election and we do not know who will be in Government. I have no doubt at all that Royal Assent will be forthcoming on this legislation. Why should it not be so? The age of 21 is the age in the United Kingdom. Our law will echo that. There is absolutely no reason why it should not get Royal

Assent. I am perfectly certain in my own mind that it will.

The other question that has arisen is the enforceability of this clause. We have been debating this particular issue since 11 o'clock this morning and my understanding of the contribution made by those people who did not want a change was that they wanted the law to stand as it is at the moment. There is no change to the law for under-21s proposed in this clause. So, for goodness' sake, if they have been arguing that point all day, they should concede that the situation remains the same for the under-21s. How will it be enforced? With great difficulty, as is the situation at this very moment in time - no change: with great difficulty. But what we will have done, if we approve this clause, is honour our international obligation (**Members:** Hear, hear.) regarding the privacy of the over-21s, and again I do not want to be drawn into the debate on the principle of the subject. So as far as enforcement is concerned, of course it will be difficult, but I do believe that if there are complaints about people under 21 committing homosexual acts in private after we have established this law, then the police would be absolutely proper in investigating it and of course they would have the support of the Chief Minister, and I am interested in the hon. member for Michael making a contribution other than 'Hear, hear.' or 'I told you so.'. His view on this particular matter three years ago was very, very clear, (**Members:** Hear, hear.) and I agree with the hon. member - international obligations in his view and mine were, at that stage, very important. My view has not changed.

Mr. Gilbey looked for a frank answer about the age of consent. The hon. member knows as well as I know that there are no guarantees on the interpretation that a court will put on the law that we pass. It is a changing scene.

**Mr. Gilbey:** But would we stand firm?

**Mr. Walker:** I am on record as saying I think this Island should comply with its international obligations, and I stand by that. I think we need to, I think that trust is important internationally, and I think an area where it is clearly identified that the Isle of Man is not trusted to toe the international line is as far as our 12-mile limit is concerned. The United Kingdom would not even let us make our own byelaws out to 12 miles because they did not trust us, they did not believe that we would comply with the international obligations of the Law of the Sea Conference. Absolutely clear, and I have to say listening to the debate that has taken place today, I am not surprised.

How to enforce, difficulty in enforcement, and my hon. colleague Mr. Corrin mentioned the same. I have to say to him as far as child abuse situations are concerned between one adult and a minor or a very small child. Terribly difficult to enforce, but nobody would suggest, because there are difficulties of enforcement, that they should not remain offences. I put this into the same category, Mr. Speaker. I beg to move, sir.

**The Speaker:** Hon. members, the motion before the House is that the new clause entitled 'Unnatural offences', stand part of the Bill. Will all those in favour please say aye; to the contrary say no.

*A division was called for and voting resulted as follows:*

For: Messrs. North, Walker, Brown, May, Corlett, Downie, Mrs. Hannan, Messrs. Bell, Groves, Karran, Corkill, Waft and the Speaker - 13

Against: Messrs. Cannan, Quine, Dr. Mann, Messrs. Corrin, Cringle, Cretney, Duggan, Delaney, Kermodé and Gelling - 10

**The Speaker:** Hon. members, the motion carries, with 13 votes cast in favour and 10 against.

We now move on to the second of the new clauses which is over the page and is entitled 'Provisions Supplemental to'. Hon. members, I am aware that Standing Orders provide that at half-past five the proceedings of the House should come to an end, but I would like to have your support, in view of the nature of the debate that we are carrying at the present time, that Standing Orders be suspended so as to enable this particular issue to be dealt with.

**Mr. Delaney:** Could I ask you, sir, is that much legislation coming forward that our time is pressing in the near future, is that the situation? Or is to avail ourselves of other events?

**The Speaker:** No, I think the reason that I am putting this forward, that we should proceed beyond half-past five, is so as to enable the House to complete the debate that it has been engaged in since 11 o'clock this morning.

**Mr. Delaney:** If that is right, Mr. Speaker, we could carry on with this and take, possibly, the third reading at the next sitting of this House?

**The Speaker:** Oh, I am not proposing that the clauses stage of this Bill be completed today.

**Mr. Kermodé:** Are you talking about just this?

**The Speaker:** Just this particular clause, that is all. All right? So with that approval, hon. members, could I ask the member for Rushen to move the second of the new clauses, please.

**Mr. Walker:** The second new clause, Mr. Speaker, is contains provisions supplemental to the new clause we have just approved. This clause defines 'in private' for the purpose of the last clause, it makes special provision for servicemen and merchant seamen, and it provides for the exemption for consenting adults in private to last for only three years unless it is decided in that time to make it perpetual.

So sub-clause (1) defines 'in private' for the purpose of the exemption for consenting adults in private. An act involving more than two persons is not treated as being in private and an act in any place to which the public have access is not treated as in private even though no-one else is there or that the door is perhaps locked. This is to ensure that the exemption does not apply to group sex or to acts in public lavatories and similar places. It is based on the 1967 UK Act, Section 1(2)(b), but that is specifically limited to public lavatories. This means that in the Isle of Man acts in places other than lavatories will be criminal in the Isle of Man if the public have access.

Sub-clause (2) makes it clear that the exemption does not apply to offences under military, air force or naval law. The Army Act of 1955 makes scandalous conduct unbecoming the character of an officer and disgraceful conduct of a crew, indecent or unnatural kind, court martial offences. Similar provision is made by the Air Force Act of 1955 and the Naval Discipline Act of 1957.

Sub-clause (3) excludes the exemption in the case of

offences involving merchant seamen on Manx vessels and this is based on the UK 1967 Act, Section 2(1).

Sub-clause (4) defines terms used in sub-clause (3) and again comes from the UK 1967 Sexual Offences Act.

Sub-clause (5) provides that the exemption in sub-clauses (1)(a) and (1)(b) and (4)(a) and (4)(b) of the above clause is to expire after three years unless extended by sub-clause (6) of this clause. Paragraphs in sub-clauses (1) and (2) giving the exemption will cease to have effect and also sub-clause (3) and the whole of this clause. The effect will be returned to the present situation apart from the changes in the maximum penalties which will remain.

That subsection was inserted to recognise the concern that a number of people in our community and a number of members have expressed, that there will be 'a lowering of public standards and morals'. If that in fact proves to be the case, this issue needs to be addressed again in three years' time, and if there is a change in the situation hon. members will have an opportunity of again addressing this particular law. Not a situation I am looking forward to, Mr. Speaker, but I do believe an opportunity that it is right that we put into our legislation.

Sub-clause (6) enables the exemption to be made perpetual, that is, by repealing sub-clause (5) by order of the Governor in Council, subject to Tynwald approval, but Tynwald approval must be given before the three-year period runs out.

**Mr. Speaker:** I beg to move, sir, that the second new clause stand part of the Bill.

**Mr. North:** I beg to second, Mr. Speaker.

**The Speaker:** Thank you. The member for Douglas East.

**Mr. Delaney:** The main substance of the Bill went through in the last clause, Mr. Speaker, but just to clarify for future reference for the general public and people of this House and the other branch of our Legislature, just to clarify it that within three years time this subject will either be rejected - and this is what I want to clarify - taken back, this legislation, by will of Tynwald, and I understand the Chief Minister's statement that he feels some unease about that situation because in that time we could have, if the House agrees, a by-election of four members of the Legislative Council from this House and four new members come up. The vote is 13, just enough to get a third reading through, and we could find ourselves then in the position, by the wish of both branches sitting together, as I understand what is in this clause, wishing to then turn round and undo all the arguments that have been put forward by the Chief Minister in one place. Would the Chief Minister confirm that situation?

Also, is it right to think that in three years' time on the other side of the fence, if there is a movement within this House or anywhere else to comply with a reduction of the age of 21, which the Chief Minister has admitted cannot be policed, that the situation is that that would also be an opportunity to amend that part of the legislation or would it need a Private Member's Bill or a private enabling Act to do that?

**Mr. Quine:** Mr. Speaker, again I would just like to ask for clarification on (5) and (6). It seems to me a somewhat extraordinary provision and I want to be absolutely sure that I understand it properly because it is not clear, it is not very clear at all.

But there are two or three other points that I would make on this particular new clause. We have this unusual definition of 'done in private' where the essence of it appears to be that two is company and three is a crowd, and I am just wondering what is the origin of this apart from the fact that it is drawn from the UK Bill? It seems to me that it is a rather unusual way to determine or to define what is being done in private. I mean what is the origin of it? How do we come to arrive at that particular definition? It leaves me wondering whether this is just a figure that has been pulled out of the air, accepting that this particular act requires two, but, apart from that, what is the logic of it?

Then we have sub-clauses (2) and (3), and again I must enter a reservation here. We are talking about the existing position in regard to the armed forces which we have been told this afternoon is about to change anyway or we have been led to believe that we should not worry about it because it will be changed, and then we have this position in regard to people on merchant ships. Now, it was my understanding from the evidence that we took in the Select Committee that according to the legal advice both (2) and (3) are contrary to the European Convention on Human Rights, that there in fact are decisions to this effect and to that extent the UK is not at the present time complying with the Convention in respect of paragraphs (2) and (3).

So I think we need an explanation of three matters that I have referred to: the definition of what is done in private; the issue of the armed forces, the issue of merchant shipping; and, above all, what do (5) and (6) really boil down to?

**Mr. Corrin:** Mr. Speaker, with reference to subsections (5) and (6), I can readily see the intent of why they are there, but, to be quite honest, I would prefer that we make a decision here and now and that is the end of the matter, and not effectively spreading false hopes either way, because that is how it could turn out, and we open this whole issue and all the emotion and the unhappiness that comes with it. I would prefer the situation - I readily see why it is inserted - but I think we would be better off if it was not there and we were making a decision today, next week, whenever the final vote is, and that is the matter settled. That is what I would prefer and I would have thought that that would be better for the Isle of Man.

Now, if we are not prepared to vote on that basis, then we are not fit to cast a vote at all, however the vote may go, and if as a democrat the vote goes against you, well, you accept it. You may not be happy about it, but there we are. You win some and lose some. You have had the opportunity to say your piece and that is the way the vote goes and that is what you accept.

I feel that this sub-clause (5) here and (6), where it could be all be regurgitated again, I do not think that is in the interests of the Island. If we make a decision now, that is it and we get on with life.

**Mr. Karran:** *Vainstyr Loayreyder*, I would just like to say that I think the poor Chief Minister is in a difficult situation over this because, quite honestly, if he had not put this in, this amendment, there would have been almost certainly an amendment on this Floor.

As far as I am concerned, I think that what this amendment does is a sensible way forward. I agree with the previous hon. member about this whole affair. I regard it as being a very sad affair indeed. I think that it would have been far better if it had been sorted out earlier. But what I would like to say is that -

**Mr. Delaney:** He is reflecting on a decision of the House, Mr. Speaker.

**The Speaker:** Can I just make the point, hon. member, that first of all that this is not an amendment, this is a new clause, and I think that is the fundamental point and I would ask you to bear that in mind.

**Mr. Karran:** I thank the *Vainstyr Loayreyder* for that. I would just say that as far as this is concerned this is what the Government of Guernsey did and I think that it is a very worthwhile idea. Guernsey did this amendment. I think it is not a bad idea. I think that we will find out that there will not be the retrograde steps that people are talking about in our community.

At the end of the day my position has been over this amendment and the previous amendment of the Chief Minister, the fact that people should have a right to privacy, and that is the important thing that members should remember today and that is the issue that is being allowed to be clouded with all the other emotive talk that has been here. Thank you.

**Mr. Cringle:** Mr. Speaker, in order to move things along can I just simply move an amendment that (5) and (6) be omitted? And I do so, sir, so that the House will be able to vote on parts (1) to (4) of this clause as one and then if they do not wish to come back, as my hon. colleague was suggesting, in three years' time or possibly come back to have a rehash, they can omit sub-clause (5) and (6).

**The Speaker:** Thank you. Is there a seconder to that amendment?

**Mr. Delaney:** He has already spoken.

**The Speaker:** Yes, can I have somebody, please, who has not spoken? Well, we proceed with the debate. Does any other hon. member wish to speak? The member for Garff.

**Dr. Mann:** I would just like clarification from the mover because in sub-clause (5) all of the matters referred to are presumably areas which may come within the Convention on Human Rights in the next few years. Would I be right in assuming that by passing this sub-clause we would be able to conform to future requirements of the Convention on Human Rights or is it just a let-out clause? It does not seem to be a let-out clause to me. It seems to me a facility for ourselves coming within future changes in the Convention. Would that be correct?

**Mrs. Hannan:** Mr. Speaker, I will second the amendment just so that it is lying on the table, the amendment of the member for Rushen to remove (5) and (6).

But I think when mention is being made of these other parts, part 2 and part 3, of course the answer to that is not having it as a sexual offence but having it as harassment, and it is sexual harassment and it is by a person in seniority over someone else. So that would be a way, if there should be any cause for changing this in the future, you could actually change it, and I have spoken to the Sexual Offences Committee on this particular one because I believe the offence should be actual sexual harassment and that does not matter whether it is male/male or male/female then, if it is just sexual harassment. There are women going to sea on ships and, as usual, women have been ignored.

**Mr. Kermode:** Shame!

**The Speaker:** Now, does any other hon. member wish to speak? Can I first of all call on the mover of the amendment? Do you wish to reply, sir?

**Mr. Cringle:** No, sir. I do not think it is necessary to reply other than to say very briefly that in fact it does appear that if we do come back in three years' time, bearing in mind it would be three years after the Bill becomes an Act, we could be nearly back at the next general election, could we not?

**The Speaker:** The member for Rushen, Mr. Walker.

**Mr. Walker:** Mr. Speaker, Mr. Delaney asked the question of whether or not other amendments could be brought forward. Of course other amendments can be brought forward by the usual process of legislation. Other amendments certainly cannot be brought forward by the order referred to in sub-clause (6). So, yes, obviously the Bill is subject to amendment in the usual way.

**Mr. Delaney:** Can I clarify a point, Mr. Speaker?

**The Speaker:** Yes.

**Mr. Delaney:** Just so we do not waste any time and we understand each other, Chief Minister, what I am saying is, under that order, is it subject to amendment on the Floor of Tynwald when it comes as normal under Standing Orders of Tynwald, therefore it could be changed?

**Mr. Walker:** I think, Mr. Speaker, the answer to the question is, no, orders are not usually subject to amendment. They are usually approved or not approved, and I think that this order in fact will be quite clear. What it says in the Bill or in this clause is that the exemptions in the clause that we have just approved, that is, the exemptions for persons over 21 and in private, those in fact will fall unless within a three-year-period an order is brought before Tynwald which can repeal this particular sub-clause. If that is repealed, then the law as set out in the new clause we have just approved in (1)(a) and (1)(b) and (4)(a) and (4)(b) will continue to be the case.

Whether or not hon. members want that provision leaving in is a matter entirely for them. I would refer to it as the Guernsey idea. This is how Guernsey faced up to their change in the law, and there were the same concerns expressed as have been expressed by hon. members and by our community, and they said, 'Fine, we will change the law, but we will allow an opportunity to reassess the situation in three years' time.' What we have done in this and what we did in the Bill that we looked at before the election was in fact to reproduce the Guernsey idea. If members want to take it out, if they feel that the issue should not be kindled or resurrected again, perhaps just before a general election, then I can certainly understand that. I would be, I have to say, on a personal note quite content to see sub-clauses (5) and (6) removed and I would not have any hesitation in supporting the amendment. However, I would make it clear that I am moving the clause as it is printed which contains this let-out clause, to use the hon. member for Garff's expression. I think that is what it is. I would be content to see it in, but I think there is some sense in getting this matter behind us once and for all, Mr. Speaker. I beg to move, sir.

**The Speaker:** Hon. members, the motion before the House is that the new clause entitled 'Provisions supplemental to' stand part of the Bill, and to that we have an amendment in the name of the member for Rushen, Mr. Cringle, that sub-clauses (5) and (6) of that new clause be omitted. Will all those in favour of the amendment please say aye; to the contrary say no.

*A division was called for and voting resulted as follows:*

For: Messrs. North, Walker, Corrin, Cringle, Brown, Corlett, Downie, Mrs. Hannan, Messrs. Bell, Groves, Karran, Corkill, Waft and the Speaker - 14

Against: Messrs. Gilbey, Cannan, Quine, Dr. Mann, Messrs. May, Duggan, Delaney, Kermode and Gelling - 9

**The Speaker:** Hon. members, the motion carries, with 14 votes in favour and 9 against. We now come back to the clause as amended. Will all those in favour of the new clause entitled 'Provisions supplemental to' as amended please say aye; to the contrary say no.

*A division was called for and voting resulted as follows:*

For: Messrs. North, Walker, Corrin, Brown, May, Corlett, Downie, Mrs. Hannan, Messrs. Bell, Groves, Karran, Corkill, Waft and the Speaker - 14

Against: Messrs. Gilbey, Cannan, Quine, Dr. Mann, Messrs. Cringle, Duggan, Delaney, Kermode and Gelling - 9

**The Speaker:** Hon. members, the motion carries, with 14 votes in favour and 9 against.

I would suggest to the members of the House that this is a suitable time at which to adjourn and the adjournment will be until 10 o'clock on Tuesday, 7th April in this Chamber.

*The House adjourned at 5.44 p.m.*