

[PROOF]



COMMONWEALTH OF AUSTRALIA

SENATE

LEGAL AND CONSTITUTIONAL REFERENCES COMMITTEE

Reference: Sexuality discrimination inquiry

BRISBANE

Tuesday, 1 October 1996

OFFICIAL HANSARD REPORT

CONDITION OF DISTRIBUTION

This is an uncorrected proof of evidence taken before the Committee and it is made available under the condition that it is recognised as such.

CANBERRA

SENATE

LEGAL AND CONSTITUTIONAL REFERENCES COMMITTEE

Members:

Senator McKiernan (Chair)

Senator Abetz	Senator Cooney
Senator Bolkus	Senator Ellison
Senator Bourne	Senator O'Chee
Senator Cook	

Participating members

Senator Robert Brown	Senator Margetts
Senator Bob Collins	Senator Neal
Senator Coonan	Senator Stott Despoja

Matters referred by the Senate for inquiry into and report on:

- 1. The need to protect Australian citizens against discrimination and vilification on the grounds of their sexuality or transgender identity, as dealt with by the Sexuality Discrimination Bill 1995 [1996], with particular reference to Australia's international obligations in relation to sexuality discrimination and transgender identity and the action required to meet those obligations.**
- 2. Measures which need to be taken to remove any legislative and administrative provisions which are currently discriminatory on the grounds of a person's sexuality or transgender identity.**
- 3. The extent to which current legislation at a State level addresses discrimination on the grounds of sexuality or transgender identity and the extent to which Commonwealth legislation should take account of these provisions.**
- 4. The appropriate scope of Commonwealth sexuality discrimination legislation and, in particular, the need for provisions including, but not limited to, the areas of:
 - (a) public education;**
 - (b) appropriate exemptions;**
 - (c) dispute resolution;**
 - (d) remedies;**
 - (e) the availability of class actions; and**
 - (f) review of the legislation****
- 5. The extent to which the Sexuality Discrimination Bill 1995 [1996] effectively addresses the issues of sexuality and transgender discrimination and vilification and the nature of any amendments required to make it more effective.**

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WITNESSES

BREEN, Reverend Peter Stewart, Chairman, Task Force on Public Morals and Social Reform, Wesleyan Methodist Church of Australia in Queensland, 53 MacIntosh Creek Road, Gympie, Queensland 4670	776
BRITON, Mr John William, Commissioner, Queensland Anti- Discrimination Commission, 27 Peel Street, South Brisbane, Queensland 4101	681
CARDEN, Mr Michael John, Religious Affairs Spokesperson and University Liaison Representative, Queensland Association of Gay and Lesbian Rights, 4/249 Beaudesert Road, Moorooka, Queensland 4105	721
COULDREY, Ms Margo Ann, Senior Adviser, Queensland Anti- Discrimination Commission, PO Box 5363, West End, Queensland 4101	681
EARLE, Mr Peter Charles, Pastor, Christian Outreach Centre, 322 Wecker Road, Mansfield, Queensland 4122	776
HOWARD, Mr Peter Dennis, Secretary, Association of Catholic Parents, GPO Box 2040, Brisbane, Queensland 4001	737
JOHNSON, Ms Kristine Maree, Secretary, Australian Transgender Support Association Inc., 570 Lower Bowen Terrace, New Farm, Queensland 4005	789
LAWLER, Ms Merran Jane, Legal Adviser, Queensland Association for Gay and Lesbian Rights, 4/249 Beaudesert Road, Moorooka, Queensland	721
LOVNEY, Mr Adrian, Secretary, Queensland AIDS Council, and Convenor, Legal Working Group, Australian Federation of AIDS Organisations, PO Box 3142, South Brisbane Mail Centre, Queensland 4101	710
LOVNEY, Mr Adrian, Queensland Association for Gay and Lesbian Rights, 4/249 Beaudesert Road, Moorooka, Queensland 4105	721
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O'DOWD, Mr Michael Gerard, President, Association of Catholic Parents, GPO Box 2040, Brisbane, Queensland 4001	737
REECE, Dr Albert Stuart, 39 Gladstone Road, Highgate Hill, Queensland 4101	758

ROBERTS, Mr Wayne Rodney, National Coordinator for the Australian Bisexual Network, PO Box 490, Lutwyche, Queensland 4030	671
ROSEVEAR, Dr Wendell John, Doctor, Gay and Lesbian Health Service, Gay and Lesbian Alcohol and Drug Support Group, Men Affected by Rape and Sexual Abuse, 38 Gladstone Road, Highgate Hill, Queensland 4101 . .	698
SPENCER, Mr Alec, Representative, Assemblies of God, Queensland Confer- ence, PO Box 3406, Hyperdome, Logan Holme, Queensland 4129	776
WILDE, Ms Shayne Joan, Industrial Relations Spokesperson, Queensland Association for Gay and Lesbian Rights (QAGLR), 4/249 Beaudesert Road, Moorooka, Queensland 4105	721

**SENATE
LEGAL AND CONSTITUTIONAL REFERENCES COMMITTEE**

Sexuality discrimination

BRISBANE

Tuesday, 1 October 1996

Present

Members

Senator McKiernan (Chair)

Senator Bolkus

Participating members

Senator Coonan

Senator Woodley

The committee met at 8.37 a.m.

Senator McKiernan took the chair.

CHAIR—I declare open this public hearing of the Senate Legal and Constitutional References Committee. On 30 May 1996, the Senate agreed that the committee inquire into and report on sexuality discrimination by the first sitting day of March 1997. The committee's terms of reference have been advertised and provided to all interested organisations and individuals. This is the eighth hearing that the committee has conducted in the states and territories. Today the committee will hear evidence from several organisations, including the Queensland Anti-Discrimination Commission, gay and lesbian groups, medical practitioners and various church representatives.

It should be noted that these proceedings and submissions given as evidence are protected by parliamentary privilege. Parliamentary privilege, of course, confers special rights and immunities in order for senators and others to discharge the functions of the parliament. I anticipate that the final hearings will be held in Canberra in mid-October. The committee has authorised the recording and rebroadcasting of these public proceedings in accordance with the rules contained in the Order of Senate dated 23 August 1990.

To date, the committee has received over 300 submissions. The committee has before it a list of those submissions to be heard today and other submissions which had not previously been released for publication. Is it the wish of the committee that these submissions be received as evidence to the inquiry and that they be published? There being no objection, it is so ordered.

[8.39 a.m.]

ROBERTS, Mr Wayne Rodney, National Coordinator for the Australian Bisexual Network, PO Box 490, Lutwyche, Queensland 4030

CHAIR—I welcome the representative of the Australian Bisexual Network. The committee has received and published your submission which we have numbered 158. I now invite you to make an opening statement and at the conclusion of your remarks I will invite members of the committee to submit questions to you.

Mr Roberts—We made our submission to the inquiry because we have evidence and knowledge of discrimination against bisexual men and women, and also the partners and families of bisexual people. We feel that there is often discrimination coming from both sides of the spectrum, from the mainstream heterosexual community as well as the gay and lesbian community. This often makes it very difficult for people with a bisexual identity to be able to feel they fit in somewhere, thus resulting in lots of other health and psychological issues, et cetera.

CHAIR—Your submission, might I say, was an interesting submission. One of the points that I picked out of the submission concerns the discrimination that the group of people that your organisation is representing feel. Some comes from the gay group or from the lesbian group. Would you elaborate further on that?

Mr Roberts—The dominant ideology in society is that you are straight or you are gay. In your opening words you mentioned you have a number of gay and lesbian groups appearing. Bisexuals are not gays and lesbians, and nor are transgenders. The ideology is that bisexuals are gay or lesbian or that they are experimenting heterosexuals. That idea is also prevalent in the gay and lesbian community, that bisexual people are ones that just have not come out as gay and lesbian or as homosexual. While a small percentage may be going through a transition from heterosexual through bisexual to homosexual, a vast majority are truly bisexual in orientation and also in personal identity.

So we do get discrimination from people who come from the ideology that you have to be one or the other. That forces people into difficult situations personally for them, particularly if they are in married situations. They are told that they cannot be married and so forth. One of the examples, we feel, of discrimination from the gay and lesbian community is with the policy of the Sydney Gay and Lesbian Mardi Gras. While we respect their decision, we feel it is discriminatory in that they exclude membership to bisexual people and heterosexuals, only accepting membership from gay men, lesbians and transgendered people.

Bisexual people can apply for membership but they have to state reasons why they should be granted membership to a gay and lesbian organisation. We feel that many people could identify as gay and lesbian and behave in a bisexual manner, having

heterosexual relationships, but because they choose to identify as gay and lesbian, they are granted automatic membership. A bisexual person may be in a same-sex relationship, a monogamous relationship, but because they identify as bisexual they are not allowed to automatically join as a member.

CHAIR—The bill that the committee has got before it, and indeed that is before the Senate, has included in it some elements which are known as special measures. It could be argued that those special measures would cover something like the Sydney Mardi Gras, where no group other than a gay or a lesbian group is allowed to participate in that mardi gras. Has your organisation got a view on the special measures part or would you accept that the special measures that are included in the bill at the moment would cover the scenario that I have just painted about the exclusion of people?

Mr Roberts—Our group basically believes that exclusion should not occur for any particular sector of the community. However, we are willing to accept that in some situations there may need to be particular space allocated to a certain group. You cannot have men going into a particularly women's space where, say, there has been domestic violence and so on. So we can understand that in the situation of gay men and lesbians that can be the case as well. But we are talking about the fact that they allow transgender people, who may not necessarily identify as gay and lesbian, to become members. Many transgender people identify as heterosexual and therefore we feel that their policy is directly directed at a person with a bisexual identity and not necessarily at whom they sleep with.

CHAIR—Do you think the provisions that are currently contained in the bill are adequate to protect and to draw those lines of distinction that you are asking about?

Mr Roberts—I feel that the bill is reasonably well worded. We do accept, as I said, that there need to be certain areas where groups can have their own space and that sort of thing. We are pleased that the bill is broad enough in taking into account all the sexualities, as well as the gender identity. In New South Wales, the anti-discrimination legislation around sexuality only covers a person on their homosexuality as well as their anti-vilification. It does not cover a person if they are bisexual or if they are vilified because they are bisexually active with heterosexual people. If they are having heterosexual relationships, they can be vilified for that. So we are pleased that the national one would take into account those sorts of things and allow bisexual people in New South Wales to have some recourse to the law.

CHAIR—The definition of sexuality, as is contained in the bill, includes heterosexuality in that definition. have you got a view on that definition?

Mr Roberts—We believe that heterosexuality should be also covered.

CHAIR—It has also been suggested that the bill should include asexuality.

Mr Roberts—In some ways, maybe, but I think society assumes a heterosexual orientation upon everyone and it is only when a person identifies or is assumed to be something else that they are deemed to be something else, other than heterosexual. If a person chooses to identify as asexual, in that they are not attracted to any person of any gender, then that could be legitimate grounds for having that included.

Senator COONAN—I just have a few questions. What are the numbers in your organisation, Mr Roberts? How many do you represent?

Mr Roberts—We have approximately 150 financial members. We also have on our records what we call associate members of around 500 or so. They are people who contact us on an irregular basis for information, support and so forth, that we have contact details for. But they have chosen, for various reasons, not to join as financial members.

Senator COONAN—Your headquarters, if that is the right expression, are in Queensland?

Mr Roberts—That is right.

Senator COONAN—And you have chapters in other states, or how is it organised?

Mr Roberts—We have affiliated groups in Sydney, Canberra and Melbourne; and loose sorts of ones in Adelaide, Perth and Hobart. Being an unfunded organisation, we cannot really set up a proper structure as we would like and provide the support services to branches or chapters. They are autonomous bodies that are affiliated as basically founding members of the national network.

Senator COONAN—Would you see the need to have some sort of more formal or better supported national network? Do you think the numbers of people who are suffering these sorts of problems are such that you need this sort of infrastructure to assist?

Mr Roberts—Yes, we do. We get between 200 and 300 calls a month on our telephone line. We are also now on the Internet and we get a number of inquiries that way, plus we receive a substantial amount of correspondence through the mail from people all over Australia. We are now finding people contacting us from many of the developing countries in South-East Asia as well as America. Recently we got two letters from Cuba. People are hearing about us. We do have a role in providing information on sexuality and sexual health and so forth to developing countries. We have attempted to obtain funding, both in Queensland and nationally in the past, and have been unsuccessful.

Senator COONAN—One of the things that I glean from what you have said is that the problems faced by people in transgender situations seem to be basically on two levels. One is the problems that arise from interpersonal relationships—and there is a lot

of anecdotal evidence of difficulties with partners and spouses and what have you—and the other is the public policy issues of difficulties that people face in getting access to facilities and basic amenities. The act, of course, can only really deal directly with public policy issues. It cannot necessarily deal with attitudes, although what often comes from legislation is that attitudes follow. In other words, the legislation, in a way, sets trailblazes for a change of attitude. What do you see as the main public policy problems in terms of facilities and difficulties faced by people in transgender positions?

Mr Roberts—Bisexual?

Senator COONAN—Bisexuals, yes.

Mr Roberts—One initially is recognition that a bisexual orientation does exist. Most of the information seems to be orientated around gay and lesbian, if not heterosexual, and—

Senator COONAN—Does that not impact, say, with employment? I mean, if you go for a job, have you had instances where you are discriminated against because you are not either exclusively gay or lesbian or exclusively heterosexual? Is that something that comes up in an employment situation?

Mr Roberts—It certainly can, and more so if you apply for a job in the mainstream and it is found out that you are bisexual either before or after you have started. There can be degrees of discrimination and so forth, along the same lines as a gay or lesbian person would experience. Alternatively, if you were applying for positions in maybe some gay and lesbian businesses, you may not be favoured. Or in organisations that cater to the gay and lesbian community, you may not be favoured if you have a bisexual identity, whereas sometimes, say, a heterosexual woman would be favoured over a bisexual man or woman and that sort of thing. It varies and we cannot sort of put our finger on any particular thing. Often people do just shrug it off—what can we do about it—and it does not really get reported.

Senator COONAN—It can be very subtle.

Mr Roberts—That is right. They can use other reasons why the person was not chosen or why the person was dismissed.

Senator COONAN—In your submission you talk about—and I was just interested in your views about this—the Australian Bisexual Network supporting legal recognition of same-sex couples where the parties are in a committed relationship, and you also talk about some form of legal recognition for committed relationships. It is very difficult, of course, across the whole gamut of human behaviour and human relationships, to look at what is committed and what is not committed. I am just interested in your views and how we might get our heads around what a committed relationship really is in your terms. How

would you describe that?

Mr Roberts—I guess a committed relationship is where two people have made some sort of agreement that they are in a loving sort of caring, interdependent relationship. While I understand that sometimes people may not necessarily live under the same roof and still be in that type of relationship, those relationships do occur.

We are also concerned that many of the suggestions are that a relationship is only between two people and, for some bisexual people, their relationship is of three people or four people and that sort of thing. They share bank accounts, they share household duties, child raising and so on. I know that is a bit too much for Australian society to really deal with at this particular time. It is hard enough trying to get same-sex relationships between two people recognised.

Senator COONAN—Would you see being committed necessarily involving some sort of intimate or sexual relationship, or could it just be one of affiliation or, as you say, caring or some other way of indicating commitment?

Mr Roberts—I do not feel that a committed relationship necessarily has to be a sexual one, but certainly there is love and affection and caring in the relationship. There certainly are heterosexual relationships where sex does not occur because of maybe a medical problem or whatever. Therefore, are those less committed relationships than others where sex does occur? Similarly it would apply to a same-sex relationship.

Senator COONAN—Has your organisation discussed any form of agreement that you would recommend, such as a written agreement, to try to encompass some of these concepts? Even if you had a schedule of people to whom you felt some commitment and a list of names—it could be more than one or two—as a means of identifying the people who you wish to benefit in some of the formal arrangements other relationships permit, such as insurance and inheritance?

Mr Roberts—That is one of the main areas that concerns us: superannuation, insurance, various legal documents and so forth. But in the area of a marriage and things like that, it could be a domestic partnership and registration type thing, whether it is with a local council or celebrant or something like that. If a couple or the people concerned wish that, then we feel that they should have the right to undertake that the same as a heterosexual couple—

Senator COONAN—Yes. From the point of view of your organisation, I was just interested to know whether you had tried to actually formulate it and, insofar as anyone has a discretion, to be able to accommodate these sorts of wishes so that it is at least written down or recorded in some way that people can refer to.

Mr Roberts—I am sure some members do organise ways and means of having

their relationships recorded, whether it is with a particular insurance company that does accept that or whatever. We have looked at a proposal put forward by the New South Wales member Clover Moore on relationships, and we find that that is reasonably along the lines that we would like to see implemented. Although there again it only talks about the relationship being between two people. We would like to see that being a bit broader.

Senator COONAN—The sort of really serious implications for you would be where HIV positive bisexual people cannot get support for illness. They seem to me to be really very serious areas of public policy that affect health and wellbeing in a way that this act is no doubt designed to look at. Do you have any comment about that?

Mr Roberts—We have had a number of HIV positive bisexual men report to us discrimination within the AIDS support network that they have approached. They are fine if they identify as a gay man but, if they identify as a bisexual person, they have found that attitudes change. They feel very uncomfortable in that situation and, therefore, they withdraw from it; and thus they do not get the support that they really need. I am not saying that all HIV support services are like that. It is not necessarily the service but the other individuals involved in that seeking of support. Again, the service needs to look at those issues; and the bisexual person also needs to raise those issues with the service.

Senator COONAN—Yes. I suppose it is always a dilemma as to whether it is raised or not. As you quite rightly say, it is often easier to withdraw from it than to confront it.

Mr Roberts—Yes. Often, when a person confronts things, they may get a lot more negative attitude come their way from a broader area than just that particular service, and that goes for other people who are not HIV positive but who identify as bisexual. If they seem to be creating a stir, they can be really black-listed, regardless of where or what group or whatever. Sometimes, by my speaking up as a bisexual person, I often feel as though I am somewhat black-listed.

CHAIR—In your submission, you give some examples of the discrimination that exists in our community against bisexual people, and you also mention the calls that you receive on your telephone and your answering service.

Mr Roberts—That is right. We have had death threats and certainly abusive calls. I have brought in some of the ones that we have been receiving over the last several months, since about July. These particular callers are about 15 years old, and they are ringing from the Sunshine Coast. They have been doing it now since we were in our community centre, which was September last year, when we had to move out, and they have been continually harassing us. The calls have gradually got worse, particularly since the gun debate; although they do not talk about shooting you, they talk about stabbing you, running over you and things like that. The language can be quite foul. There are lots of ‘f’ and ‘c’ words and things like that. I brought the tape in. I did not know whether the

committee would be interested in hearing it.

The reason I brought it in is that, often, young people are involved in these types of things, whether it is gay bashing, harassment or whatever—and when I talk about gay bashing, I mean bisexual people, gay men, lesbians, and transgender people being bashed. A young person often is having problems with their own sexuality, and this is a way of showing to their peers that they are not that way inclined. We feel that one of the ones that phones up in this small group of people is having particular difficulties with his sexuality. But the fact that they are 15-year-old schoolboys and they are talking about sticking knives in you and running you over—all this hate, and so forth—is an indictment on the community and society, in the way that they look at issues.

Senator COONAN—Have you tried to have these calls traced?

Mr Roberts—We have got Telstra at the moment doing the traces on the calls when we receive one. Of course, we have to be there to take the call. After they hang up, it is traced. Unfortunately, all but one has been from a public phone box. But we certainly know the area and so forth. They are ringing through on our toll free number. So we actually have to pay to be abused. We are not funded and—

Senator COONAN—There is a certain irony about that, is there not?

Mr Roberts—Yes. One day they rang approximately 10 times in the day. They can ring as much as five days a week, particularly during the school holidays. It does mount up over a period of time. Being unfunded, it does make it extra difficult. But we would like to see education in the school system around sexuality and that sort of thing, to help prevent discrimination, to help prevent youth suicide, gay bashing and so forth. Youth suicide is of particular concern to us. Often it is only spoken about as gay youth. Often, because a person has a dual attraction, they feel that they do not fit in anywhere. They do not fit in with the gay community, they do not fit in with the straight community, and that becomes the confusing issue for a young person. That may lead to an attempted suicide.

CHAIR—On the matter of the recordings on the phone, what was your wish in regard to those?

Mr Roberts—If the senators wish to listen to it, I would be happy to play it; but otherwise it was to raise awareness of it.

CHAIR—How long is it?

Mr Roberts—It only goes for a couple of minutes. There are a number of calls; but they go for approximately three minutes.

CHAIR—What is the wish of the committee?

Senator WOODLEY—It probably would be helpful.

Mr Roberts—I must admit I tried to copy the tape so I could give it to you, because we want to keep it in case we bring the police in, but it got caught in the machine. So I had to do a little patchwork job, but hopefully it will be okay.

Senator COONAN—You could also type a transcript.

Extract from tape-recording, excluding inaudible sections—

Biggest homosexual I have ever met.

Homosexuality . . .

My name is. . . Send me some information, please. I cannot help myself. Please, please . . . Victoria, Australia 3075. . . I will kill you . . . 3074 Thomastown.

You are all faggots. I will come and. . . find you.

Fuck you, fuck you, cunt. Fuck you. I can kick your fuckin' arse, boy. Fuck you, cunt.

I would just like to speak on behalf of all my friends who live in Queanbeyan. I think you are a complete wanker. You are a faggot. You are a cocksucker. . . I am 15 years old. You are such a wanker. I am sick of hearing your voice. Yes, . . . cunt. You know . . . until I am older so I can fucking kick your head in. I may come up and bite your dick off—with fake teeth, that is. I can't wait until they, like, put on the news, 'Bisexual been killed by boy'. Huh, cocksucker.

CHAIR—Thank you for that. I hope we are able to transcribe it so that it can be reflected. But I think we have probably heard enough at this stage.

Mr Roberts—I just add that they sometimes give out people's names, addresses and phone numbers which are either false or they may be of a friend, or something or other, because we do return people's calls. We are wise to them now.

Senator WOODLEY—Can I check the area where you said they mostly come from—was it the north coast?

Mr Roberts—That is right—the Sunshine Coast.

Senator WOODLEY—There is certainly a strong element of fundamentalist Christians in that area that are very homophobic. They attack me, so that is how I know.

Mr Roberts—There is also a fairly strong gun lobby group up there as well. These calls have got progressively worse since the gun debate started.

Senator WOODLEY—In some cases it is the same people, in my experience.

Mr Roberts—That is right. As I said, the young person that spoke last there is the one that we feel has a problem with their sexuality. The one earlier that was being very

abusive was trying to incite someone else to speak on the phone. We often hear that too: 'Come on, say something, say something,' and that sort of thing. There is a group of them that do ring up, but it is usually two particular ones. Whether it is to do with a particular religious upbringing that the person has had and they have difficulty in dealing with their sexuality because of that culture they have grown up in, or are growing up in, we cannot determine.

We have had women ring up—young women and girls have rung up and made various inquiries and we have referred them to the kids' help line and so forth. Then they started ringing up and harassing, harassing, harassing, and they came out as very fundamentalist Christian and saying that we were going to hell and all sorts of things. Yet we had tried to help them. They had expressed concern about sexual feelings for a girlfriend and so forth. So it is not only restricted to boys, but it is mostly boys and young men.

CHAIR—It is argued that, rather than legislation or laws to control behaviour, educational campaigns are what is needed and would be much more suitable. I note some of the material that you have attached to your submission and also that you have a home page on the Internet, so the network has an interest in public education as well. Would you care to expand on that? Unfortunately, time is catching up with us.

Mr Roberts—Yes. We certainly believe that some form of public education around tolerance, not only on sexuality grounds but racial grounds and disability and so forth, needs to be addressed by society in general. Most of the attitudes do come through from peers and so forth. A person certainly is not born with hatred, they acquire it.

But we also feel that there needs to be legislation there to back up any educational programs because there are going to be people in society that will continue, regardless of what education there is around, to promote, to foster discrimination and hatred towards a particular group. Where that is occurring, inciting hatred and so forth, there need to be legal forms to address that so that those people can be brought to task. It is fine to have their own opinion of things, but to use their opinion against another person or to incite other people we feel is wrong.

CHAIR—Do you see the argument that legislative protection will work if you have got funds to finance lawyers to fight your cases to ensure that the law is enforced, as opposed to educational campaigns which are more concerned with attitudinal measures?

Mr Roberts—I see the difference, and I believe that certainly the educational campaigns need to be undertaken to at least put forward a perspective where there may not have been one before so that a person can make up their own mind without someone forcing stuff of a particular view down their throat—or a discriminating view, put it that way. We also feel that there need to be the legal things. Here in Queensland there may be a threat to the sexuality discrimination issues within equal opportunity. The anti-discrimination commission here in Queensland may be reviewed and those measures may

be removed. So we are quite concerned that, even if no national stuff goes ahead, that we will possibly lose the Queensland stuff—measures that protect gays, lesbians, bisexual people.

CHAIR—I have one more question regarding what you said in your recommendations at the conclusion of your submission. You argue that the ban on HIV positive people emigrating to Australia is in breach of the UN human rights resolutions. Is that ban, as you call it, not there for health reasons, and does it not apply to many other health areas where people have health problems and are not approved for migration to Australia?

Mr Roberts—That may be the case, but we personally feel that a person's HIV status does not necessarily impair their ability to contribute to the community, while some other health areas may do so. We feel it is more on financial grounds that the Australian government does not want to have to outlay moneys to support these people if at some stage they do become sick. Therefore it is a financial thing rather than real medical issues being concerned there. Australia has been very good with its human rights record in most cases, and the UN resolutions did say that HIV positive people should have freedom to move and so forth, that countries should not discriminate upon the grounds of a person's HIV status if they were refugees or migrants or visitors or whatever. Yet a number of countries throughout the world have done so. The United States was a very good one in banning people who were HIV positive from entering the country.

CHAIR—So you do draw a distinction between people with HIV, for example, and people with tuberculosis?

Mr Roberts—No, not necessarily. I was just saying that some people may not be able to support themselves when they come to the country, and that that may be a reason for excluding such a person as an immigrant, the same as anyone else that may not be able to support themselves. Because of the particular health issue, they may not be able to support themselves. Where a person who has any health problem or disability can support themselves or someone else can support them, they should be allowed to immigrate, particularly if they are the partner of a person that can work and contribute to the community and things. The way the policy is, that person then is excluded from immigrating to Australia and therefore their partner is not able to come here either, although that partner might be able to contribute quite significantly to the development of Australia. There are things like that.

CHAIR—Thank you very much for your attendance here this morning and the assistance you have given the committee in its deliberations.

Mr Roberts—Thank you very much.

[9.20 a.m.]

BRITON, Mr John William, Commissioner, Queensland Anti-Discrimination Commission, 27 Peel Street, South Brisbane, Queensland 4101

COULDREY, Ms Margo Ann, Senior Adviser, Queensland Anti-Discrimination Commission, PO Box 5363, West End, Queensland 4101

CHAIR—Welcome. Do you have any comments to make on the capacity in which you appear?

Mr Briton—I am the Queensland Anti-Discrimination Commissioner and also the state manager of the Human Rights and Equal Opportunity Commission.

CHAIR—The committee has received and published your submission, which we have numbered 46. I now invite you to make an opening statement, and at the conclusion of your remarks I will invite members of the committee to submit questions to you.

Mr Briton—Thank you for the opportunity to be here. I will speak quite briefly to start with, since you have the written submission.

The first point I would like to draw to your attention is that, as commissioner in Queensland and state manager of the human rights commission, I administer both the state anti-discrimination legislation and the federal anti-discrimination legislation, and in that sense have a different perspective from witnesses that have spoken with you in the past. My state counterpart in New South Wales, Chris Puplick, and the federal Human Rights Commissioner, Chris Sidoti, I am aware have spoken with you, but Chris Puplick manages the state legislation only in New South Wales and Chris Sidoti the federal legislation only. We administer both and have that different experience, if you like.

I have also read and concur with the detailed submission that has been provided to you by Chris Sidoti on behalf of the Human Rights and Equal Opportunity Commission. I will not traverse that ground.

Really, what the submission that we have put in does is outline some of the gaps in legislative protection that occur in particular across states but also within the ambit of the Queensland anti-discrimination act. Obviously, at the federal level the main problem, which has been a significant problem in recent times, that will apply, no matter what happens with the Brandy outcomes, to discrimination on the basis of sexual preference, sexual orientation and so on, is the lack of any enforceable mechanisms to protect people against discrimination on those grounds, the absence of any legislation to protect against vilification and, in particular, an absence of any protection against discrimination on the basis of transgender identity.

At the Queensland level, the Queensland legislation covers discrimination on the basis of sexuality. It has a particular ground of lawful sexual activity. May I say that the use of the words ‘lawful sexual activity’ as opposed to words like ‘sexual preference’, in my understanding, was part of the politics and political marketing of getting the legislation up in the first place here. But it has had a number of unintended and interesting consequences, not least that the lawful sexual activity ground is increasingly being used by heterosexual couples in the same workplace, for example, where their workplace policy is that couples cannot both be in the same workplace. So, while ‘lawful sexual activity’ was intended to pick up gay and lesbian people in particular, it has actually had an unintended and broader consequence than that.

I must also say that discrimination on the basis of sexuality to some extent is picked up, obviously, through the impairment disability provisions of the act, with the HIV people in particular using it under that heading rather than the specific headings around gay and lesbian identity.

The Queensland act has no protection in it for vilification on the basis of sexuality or transgender identity, yet obviously you have heard from the previous witness, and you will no doubt from others, the very harmful and ugly effects of some of the vilification that is occurring—and, I concur with the previous witness, increasingly occurring, in our experience. The vilification provisions in the Queensland act apply to racial and religious hatred. I will come back to them because they are seriously deficient, and some discussion around that might help your deliberations around these provisions in the federal act under consideration.

The inconsistencies, may I say, between the state and federal legislation—the gaps at the federal level, the gaps at the state level, but in particular the inconsistencies between state and federal legislation—I think, are a real problem. I have no doubt you will want to come back and address questions to us around that. But it creates very serious problems for us in administering both state and federal legislation, particularly at the initial point of inquiry when complainants or prospective complainants have to make decisions about which act to utilise in bringing their complaints. It is an unnecessarily complicated framework that we would love to see addressed through some process of harmonisation which, as you would be well aware, has commenced, although only tentatively.

Just to add some information on the scope of these problems as they come to us, the total number of complaints brought to us under the Queensland legislation on the basis of lawful sexual activity is small. It has consistently hovered between two per cent and three per cent of all our complaints each year. However, in this area, as in many others—and I am thinking in particular, for example, of race discrimination—we should not make too much of the fact that the percentage of complaints is low. The ethnic communities, the indigenous communities and the gay and lesbian communities also will tell you over and over again that one of the significant indicators is not so much the number of complaints that come but the number of problems that are solved simply because people are able to

draw attention to their rights under legislation, which to some extent makes the problem go away and, ergo, it never comes to us and therefore does not get reflected in our statistics. So, while the statistics are low, our feedback consistently from the communities that utilise the legislation is that its mere existence is a significant influence on behaviour in the community.

I should also tell you that the transgender community in Queensland has consistently approached us with their concerns that they are not covered by our legislation. It has always been my view that they are not covered by the Queensland act and, as I have indicated in the submission, there is now an opinion from the Queensland Anti-Discrimination Tribunal that transgender persons are not given protection under our legislation. I will make three final comments. These in particular are based on the fact that the legislation that you are looking at follows the general model of anti-discrimination legislation.

The first point I want to make is to draw attention to the issue around community education, as well as a redress or complaints function. It is clearly absolutely essential that there be pro-active and well targeted community education programs. In our commission, we have been putting a lot of attention lately into very targeted community education programs. The programs are targeted in particular at the employers and service providers, in order to have them address the issues up front, as it were, and pre-empt problems. That has been very useful and very significant. We would obviously support very pro-active community education programs.

On the other hand, community education programs in the absence of some formal redress mechanism will not do the job. Community education programs tend to influence those who are most influenced and are the most amenable, and such programs obviously do not touch the people who are most hostile and most likely to cause problems. I will draw your attention in particular to sexual harassment as an example of that. Sexual harassment has been the subject of very vigorous community education programs from agencies like ours and many other agencies in the community; yet sexual harassment persists as a major and ongoing problem in our community. Very clearly, one of the things that we are noticing is that people being on the wrong end of some very effective complaints is one of the most useful community education tools of all.

The second point I would like to make is that exemptions need to be very carefully considered. Obviously, there are balances to be struck—for example, around vilification and free speech and protecting people who are vulnerable to vilification—but exemptions need to be extremely carefully considered. They can have the impact of making the legislation of very limited use indeed. I draw your attention again in that context to section 126 of the Queensland legislation, which is the section that addresses racial and religious hatred. Those provisions are as good as useless because they are so onerous in terms of the test that they simply cannot be relied upon to afford any protection to people vulnerable to racial and religious hatred; and the same issues would obviously apply to

vilification on the basis of sexuality. If the exemptions are too broad, and if they are not very carefully worded, then the redress functions for vilification are notional only.

The third point I would like to make, regarding the model for the bill, is to draw attention again to the proposals currently before the Standing Committee of Attorneys-General regarding harmonising state and federal anti-discrimination legislation. We have made submissions to SCAG that are very supportive of those proposals. We regard them as extremely important, but we notice that they are long term and will be difficult. I cannot see terribly much of significance coming out of that process in the immediate future. In that context, I would not like to see the serious consideration of the legislation before you being held up pending the outcome of that process, which is likely to be difficult and long. I will end my preliminary remarks there.

CHAIR—Starting the questioning with the part that you ended with, can you give us some more details about the harmonisation policy? It is not something we have heard a great deal about as the inquiry has progressed around the country.

Mr Briton—It is difficult to say too much about it in detail. The Standing Committee of Attorneys-General has on its agenda the issue of ‘harmonisation’—that is their word I am using, not mine—of state and federal anti-discrimination legislation. It has a number of components. One is the issue of whether or not to integrate the various federal anti-discrimination acts into a consolidated act, along the lines of most of the state acts. The other is the issue of overcoming those inconsistencies in coverage between the state acts, and between the state acts and the federal acts, which mean that the protection that Australians have against discrimination is very varied, depending on where they happen to live.

Sexual harassment, for example, is a classic example. The federal sexual harassment provisions essentially apply to harassments conducted in public; the sexual harassment provisions under the Queensland act are very broad, and more or less protect people against sexual harassment wherever it occurs at any time. There have been a number of significant cases recently where quite private sexual harassment has resulted in quite significant compensation. A particular case I am thinking of is vicious, persistent and nasty sexually harassing phone calls made to a household of women.

CHAIR—In that harmonisation program which SCAG is doing, is there any public input? Has the public been invited to make any suggestions to it?

Mr Briton—At this stage, as I understand it, submissions have been called for, obviously from the Human Rights and Equal Opportunity Commission and the various state counterparts, and it is at a very preliminary stage. At a meeting of state commissioners recently, we basically agreed a position that we are all supportive of that exercise but we are not in a particularly good position at this point in time to make considered and detailed input, pending a number of other matters that need to be resolved in terms of

Commonwealth-state funding arrangements, in any event. Until those matters are resolved in the near future, it would be hard to know what harmonisation would even look like—in terms of administrative arrangements, that is, although the legislative issues obviously stand alone.

CHAIR—Is your office unique in the cooperation between the administration of the Commonwealth act and the administration of the Queensland act? Are you unique as compared with other commissions around Australia?

Mr Briton—No. Rather than HREOC it is the Commonwealth and state attorneys-general in most states. New South Wales is an exception, as is Tasmania, for obvious reasons, and the Northern Territory is an exception, but all other states and territories—the Australian Capital Territory, Western Australia, South Australia, Victoria and Queensland—have cooperative agreements between the Commonwealth and state attorneys-general. These are arrangements by which there is a one-stop shop in each of those states for administration of both state and federal legislation. There are funding arrangements, which are very varied across the states, to support those arrangements.

What makes Queensland a bit different is that the arrangements here are the mirror image of those in most other states. This is just historical legacy. As state manager of the human rights commission, by virtue of being in that position I pick up the statutory responsibilities of the Queensland commissioner, whereas in the other states it is the person who wears the state commissioner hat who picks up responsibilities by delegation under the federal legislation. It is the mirror arrangement here that is a bit unusual, but the broad arrangement is one that is common to most states, New South Wales being the main exception.

May I say that New South Wales are keen to have the same sort of arrangement and the Commonwealth Attorney-General has indicated his preference that all complaint handling under all state federal legislation be dealt with through state agencies. I think there would be broad support for that proposition, although a lot of dispute about the funding arrangements that then go with it.

CHAIR—It has been argued to us as well, in the course of this inquiry, that rather than having special anti-discrimination legislations to deal with sexuality we should have one omnibus set of legislation to deal with all forms of anti-discrimination. Do you have a view on that?

Mr Briton—That is part of what I was hinting at, I suppose, through the harmonisation agenda. Certainly, that is the arrangement in Queensland, where there are 13 grounds of discrimination all in the one act, similarly in New South Wales, Victoria, South Australia and elsewhere. It is only the Commonwealth that has the separate sex, race, disability, et cetera, legislation. You would be aware that serious consideration is being given to integrating them at a federal level. You get into nice questions of how their

legislations are administered and what the corporate structure is. Whether there are separate portfolio commissioners, for example, could be seen to be a separate question. But certainly my view and the view of most of my counterparts in other states is that it is best dealt with through one, as you put it, omnibus piece of legislation.

Senator COONAN—You make what I believe is a very important point in your submission, at page 5, and I wondered if you could elaborate a little bit on it. You said that you wished to express a reservation about legislation which includes transgender identity or sexuality. It is a mistake I made just this morning before I was given some reason to think in other terms. Can you elaborate on the importance, as you see it, of identifying the difference between gender identity and sexual orientation? I ask that particularly as the previous witness was talking about bisexual orientation and really serious difficulties that people were experiencing.

Mr Briton—I heard the remarks of the previous witness and I agree with them. I notice that this afternoon you will be hearing from an Australian transgender support group, who can elaborate on this. The point they have consistently made to us is that there is no reason why, for example, a transgender person—someone who has changed their gender identity—would not be asexual. So they are saying it is just a simple conceptual difference. They may be sexually active, they may not be sexually active, and it has got nothing to do with whether or not they are transgenders. That is the essential point.

Ms Couldrey—I think the other issue that transgender groups have consistently raised with us is that much of the discrimination they face goes to the heart of the identity. It is being able to have their reassigned sex or their identity recognised in terms of even registration, et cetera. That goes to the heart of how they feel about themselves. They have made that point consistently to us.

Mr Briton—It is not their identity so much as their change of identity that creates the problems of discrimination.

Senator COONAN—It is a while since I have had anything to do with this area as a matter of practice, but what is the position now if somebody wishes to reassign their identity, say in Queensland? Can you have your birth certificate changed and your employment records changed?

Ms Couldrey—We are not technical experts in this area but we were advised by the transgender groups that speak with us that there are significant difficulties in documentation at both state and federal levels. Perhaps they will be able to give more detail when they appear.

Senator COONAN—It is something we could take up with them.

Mr Briton—Yes, and inconsistencies again, which is part of the problem.

Senator COONAN—So from your point of view there is a real need to try and have some standardisation across Australia of the various remedies and acts that actually deal with these sorts of difficulties?

Mr Briton—I think as a general principle Australians are Australians and ought to have the same rights. That is a broad notion but I think there would be widespread support for that. There are a number of models. One would be that there be uniform legislation. Another would be that there be some sort of template so that, at least on the areas where states and the Commonwealth can agree that these issues ought to be covered under anti-discrimination legislation, at least around technical definitions and so on, there is consistency on the areas of agreement. If some states want to go beyond that, that is another model that would allow differences between states, as it were, on how far they want to go.

Certainly, in the areas of overlap, my view is very strongly that there should be consistency. It makes for unnecessary pain and expense for complainants and for people such as ourselves who administer this legislation to weave our way through technical difficulties around, for example, the fact that ‘lawful sexual activity’ are the words in Queensland and ‘sexual preferences’ are the words somewhere else; or that ‘sexual harassment’ means this in Queensland and something else in New South Wales.

There are also different technical requirements about lodgment dates and timelines for various procedural steps and so on. This all makes the choice of jurisdiction complex and difficult, but then that choice of jurisdiction can have a significant impact on the eventual outcomes. That sort of administration is a field day for black-letter lawyers who want to run their arguments when the substantial issues, obviously, are quite different from that.

Senator COONAN—I suppose that in your case at least you can do it all under one roof whereas in other states people have to go to two different places and try and make some judgment about which jurisdiction to move in.

Mr Briton—This is coming back to Senator McKiernan’s question. Mostly it is really only New South Wales and the Northern Territory that stand out in that sense.

Senator COONAN—Without the agreement?

Mr Briton—Yes, without the agreement. They are both, as I understand it, seeking cooperative arrangements. The issues will be whether they can come to some appropriate funding arrangements. In principle, everybody wants agreements for those reasons.

Senator COONAN—There is another area that I wanted to ask you about—and to a certain extent I am asking you, I suppose, philosophically. It is a very difficult issue and, unfortunately, I was not in the parliament when the debate was had on this issue—I think it was last year. How do you see balancing free speech with the need to be able to provide

some legislative protection against vilification? Can you make some comment about that?

Mr Briton—That is a broad and difficult question. I do not see there being an in principle conflict. I think, in principle, people can express views freely in a way that is not vilifying, or hostile, or likely to incite hatred and animosity. While that is an in principle view, there are obviously complexities in balancing these things out. The interesting discussion really comes about in crafting the forms of words that are used—

Senator COONAN—And the exemptions.

Mr Briton—And the exemptions. It is very hard to comment without looking at particular forms of words and then drawing on experience. I do reiterate the point I made earlier that the attempt in section 126 of the Queensland Anti-Discrimination Act makes it so onerous to establish that there has been racial hatred that in fact those provisions provide no protection at all and that is a matter of great concern for people within the ethnic and indigenous communities.

I suppose one could make broadly similar comments about the amendments to the racial discrimination legislation recently. That was a very painful debate, as you will all be aware. There are concerns at the way in which the exemptions are currently drafted in that the sorts of racial vilification that will be picked up will include a lot of trivial backyard domestic disputes and so on, and that essentially a lot of the real ugliness that is likely to cause difficulties for people will be exempt.

Senator COONAN—Yes. It is always a great conceptual trick: to be able not to throw the baby out with the bath water. There is a legitimate need for some exemptions, but not ones that totally abnegate the whole purpose of the section.

Mr Briton—Yes. Since you invited a sort of philosophical comment—

Senator COONAN—I think that it is important that we think laterally and broadly about these issues.

Mr Briton—I think some of those problems are overstated in the sense that people can very easily invent scenarios where there would appear to be a dramatic conflict between the rights of free speech or religious expression, for example, and vilification. But I think a lot of those examples that people cook up are at the end of the day, in practical terms, quite fanciful. They are not the sorts of things that we deal with on a day-to-day level in any discrimination body. For example, the legitimate expressions of religious views that might be quite hostile to homosexuality in reality are very unlikely to be the sorts of events that gay people would be complaining about as homosexual vilification.

Ms Couldrey—In the sorts of examples of vilification that groups bring to us, it is generally quite easy to see the line between a free expression of one's own views and the

right to hold one's own views as opposed to vilifying and being hostile towards other groups because of their right to have their own views. It is when you see those daily examples that it becomes quite clear that those lines can be drawn.

Senator COONAN—Absolutely. There would be very few fair-minded people who would not regard the sorts of phone calls that the previous witness was telling us about as pretty nasty and pretty serious. It is a very different issue to having views about a group that may be legitimately held views.

Mr Briton—Coming back to the philosophical sort of comment, I used to study and teach philosophy and there are distinctions between knowing how and knowing that. I think the point you are making is that if you line up the statements it is pretty easy in practice for people to distinguish what is a genuine religious view or a genuine matter of public comment and what is vilification or hatred. If you were to line up utterances you would get most reasonable people agreeing quite easily about which side of the fence something fell on. It is a very different matter to try to get philosophical and conceptual about articulating exactly what criteria are used.

Senator COONAN—That is right, even down to the piece of legislation.

Mr Briton—Talking about this sort of stuff conceptually, we tend to get locked into those sorts of philosophical discussions. Practical problems that everybody can recognise persist. In a sense, a lot of the philosophical discussions are far too broadly conducted, and would be much better conducted in the context of, 'Let's look at forms of words and talk detail.'

Senator COONAN—They go off a bit on tangents, as well.

Senator WOODLEY—In terms of your own experience in the Human Rights Commission, I want to ask you about the effectiveness of penalties. It is a long time since I was dealing intimately with your kinds of issues, but I realise that you have a process which starts with mediation and comes down the scale. I am interested in—just again being philosophical—how effective mediation is and how often you have to go down the scale to court, say, eventually.

Mr Briton—That is right. I made the point earlier, and I made it very seriously, that at the end of the day the availability, not so much of penalties—that is not quite the right word—but orders, for example, that compensation be made, is one of the bottom line community education tools that you have.

I can give you some examples of that. Sexual harassment in the police force, for example, has been a well-recognised problem right across Australia. There was a case not too long ago in Queensland. There have been a number of very significant settlements where, for example, police have come in, put a cheque on the table and said, 'We're

starting our negotiations at \$160,000; where will we go from here?’ This is in a conciliation conference, so you can imagine the ugliness of the sexual harassment and the persistence of it in that sort of scenario.

The police in Queensland really deserve considerable commendation, in my view, for the very significant and commendable efforts that they are putting into overcoming that problem. But what has driven them is the bill. Eighty-five per cent of all our complaints are complaints that arise in employment situations; employers make their commercial decisions and they are used to making decisions of that sort, and they do. The range of industries where there have been particular problems—the hospitality industry, for example, in north Queensland—with sexual harassment and so on, are starting in a fair dinkum way to address those issues. But they are being driven by the sanctions that can be there—and that they are now persuaded will be there—if they do not do the right things and do not engage genuinely and meaningfully in conciliation.

People will say all sorts of figures about success rates of conciliation, and will quote 85 per cent or 50 per cent or something, but you need to be very cautious of those sorts of statements, because they ultimately rely on ways in which complaints are counted and on what is included as a complaint, in the first instance, and what is not. The reality is that the vast majority of the matters that we accept as complaints are settled through conciliation and, in most instances, with a fair amount of genuine feeling. It is about 14 per cent of all the things that we count as complaints, which would mean, from the way that New South Wales counts complaints, that probably about seven per cent of all matters go to a formal hearing and determination. And then, most of them fall over in that context without the need for a formal determination.

The conciliation processes are useful, and they also provide an opportunity, which can be reasonably limited but also incredibly useful, for there to be systemic change. What I mean by that is quite simple: many complainants in the discrimination jurisdiction want redress for what they have suffered and the injury to their feelings, and perhaps some lost wages or whatever it might be, but over and over again people say to us, ‘What I want to do is to make sure that this never happens to anyone else again, and that this behaviour change is to protect other people.’

One of the things that can come out, and consistently does come out, of conciliation agreements—because they are open-ended, and it is for the two parties to negotiate with some assistance from staff of the commission—is an opportunity for complainants to help drive respondents to the point where they will change the recruitment practices and the grievance resolution practices within their organisation, and they will change their policies and procedures in ways that should and do serve to minimise the incidence of these sorts of things in the future. For that sort of reason, the conciliation framework is incredibly useful.

Ms Couldrey—To add to that, a good example of how there is a need to have not

just conciliation but a public hearing and forcible mechanism is the way that the federal Human Rights and Equal Opportunity Commission Act works, where it only provides powers to investigate and conciliate and then for the commissioner to report to the Attorney on matters he considers breach the Act. We have had very few outcomes from people using that provision, mainly because they know that there is nothing beyond conciliation. Few people might go on—only 12 per cent in Queensland, in our case—to a public hearing, but the impact of having that available is significant in getting people to settle at the conciliation level.

The third part of the jigsaw in terms of appropriate measures is that there can be penalties, criminal sanctions or offence provisions, such as some of the ones under our act; and I notice in the bill that there are offence provisions for the vilification parts of the sexuality bill. They are also really important. We very rarely use those in the life of the Queensland act, but the fact that they are there sends a significant message to the community. In a way, the provisions act as a way of changing culture in the community. There is a recognition that these sorts of behaviours will not be tolerated. So, it is not so much their usage but their availability which has a major impact.

Mr Briton—The point is that exhortation is helpful, but some decent behaviour modification possibilities are also helpful.

Senator COONAN—If I may add to this, it also seems that it just makes bad commercial sense for an employer not to deal with these sorts of issues in the workplace; and that also has had a huge impact.

Mr Briton—Absolutely. In fact, many employers have been led to the obvious realisation that, for a happy and productive work force, it is useful to have a diverse work force and it is useful to have proper procedures in place which pre-empt these problems. A lot of employers have been led to those workplace practices, as it were, through their experiences in these sorts of jurisdictions.

Senator COONAN—They have a whole new view, often, of how they conduct themselves.

Senator BOLKUS—Can I just go back to the question of inconsistency that you mentioned earlier? The SCAG working group, for instance, has been going for some time, hasn't it?

Mr Briton—The SCAG working group first wrote us letters less than 12 months ago. My understanding is that it would have first got on the agenda about 12 months ago, and it has been slow. My guess is that it will be slow.

Senator BOLKUS—My substantive question is that you mentioned inconsistencies between Queensland and federal legislation, and I would like to know more about those—

how you see some of them. You might want to take that sort of question on notice and come back to us.

Mr Briton—We could run off some examples now, if you like, but we could certainly take that on notice and provide you with that information. A lot of it is very easy to obtain in the sense that the initial submissions to SCAG obviously highlighted a lot of those issues. But one I mentioned earlier is sexual harassment. Queensland sexual harassment provisions are much broader than federal ones. What that means for people in Queensland is that, if you are a Commonwealth public servant sexually harassed in your workplace, you do not have the same rights as a person in the building next door who is a Queensland public servant who can use the Queensland act.

Senator BOLKUS—Are there any moves within Queensland to change discrimination legislation?

Mr Briton—The Commonwealth-state agreement expires on 9 December. The Commonwealth Attorney-General has indicated his preference that the arrangements in Queensland mirror those in other states—in other words, that the Queensland commission administer federal legislation on its behalf rather than the mirror image which is currently the case. Those negotiations raise the prospect of an increased financial burden in the administration of the Queensland commission falling on Queensland and not on the Commonwealth.

In those circumstances, the state Attorney-General has indicated that all options are open. The rumours and speculations that are well informed that are going around are that one option would be that the investigation and conciliation functions of the Anti-Discrimination Commission be vested in registry staff at the Magistrate's Court.

Another suggestion that has been going about is that the Queensland legislation would be limited in its ambit and scope to reflect the ambit and scope of the federal acts—prior to consideration of this one, obviously. Queensland has yet to make its decision about those matters, and they will presumably make their decision around those matters in the context of Commonwealth-state funding discussions which are proceeding. My concern—and I have expressed it quite publicly in Queensland and also privately to the Attorney-General here—is that the Magistrate's Court option would signal the end of effective anti-discrimination legislation in this state.

The other option of limiting the Queensland legislation I think would be silly for a range of reasons and not help the funding problem in any event because that area of difference, as it were, is not where the cost burdens come in any event. My concerns are that the communities that rely on our legislation, and the big users in particular—the indigenous communities, the ethnic communities, people with disabilities and, obviously, women—are left in a situation of great concern and anxiety until some decision is made and, at this point in time, are confronting, as it were, an absence of denial.

Senator BOLKUS—Some questions arise from that. I do not know what you can tell us about the resource agreement but, if you can give us some information on how that stacks up at the moment, it would be useful.

Mr Briton—That information is all quite public. What the proposed arrangements are, I cannot comment on. I do not know; I am not privy to those discussions. But the current arrangement in Queensland is broadly a fifty-fifty split between the Commonwealth and the state for the administration of the Queensland Anti-Discrimination Commission and state office of HREOC. The problem that is raised for the Queensland government is that that arrangement is much more favourable to Queensland than the counterpart arrangements are with Victoria, South Australia and Western Australia where the Commonwealth contribution is much less. The Commonwealth Attorney-General's desire, which in principle I think everyone would support, for there to be a more standard, uniform sort of arrangement, therefore raises the prospect for Queensland that in that standardisation Queensland will suffer. Hence the problem as the Queensland government sees it.

Senator BOLKUS—My second question goes to what was probably part of that theoretical discussion we had earlier. I had always taken the view that, with that issue between freedom of speech and vilification legislation, the starting point has been that we have always had laws that protect against harmful language. It is just a matter of judgment as to what language is harmful, whether it is defamation or whether it is vilification and how we respond to it.

Can you tell us whether, in the light of the so-called political correctness debate, it is harder to run public education campaigns? For instance, I have noticed with younger people that I know that they are rebelling against anything that may be seen to be within that broad perspective of correctness. Has there been a rise in the incidence of complaints that you might have been able to monitor? Probably more importantly, in section 126 you said there are some pretty substantial problems with the Queensland legislation. So it is a three-part question going to that area of vilification.

Mr Roberts—You might need to take me through the three parts. The part that I most remember is this. We have, since the publicity surrounding race matters which started prior to the federal election earlier this year, noticed a significant increase in race complaints. In fact our stats for a period there of about four months were that we had double the number of race complaints that there were previously. This is both from the indigenous communities and the ethnic communities. I can tell you that within those communities there is very widespread anxiety at this point in time. We repeatedly are hearing from Aboriginal and Torres Islander people but also Asian people, for example, that the frequency with which their kids are coming home from school having suffered some sort of racial taunts and in some state of distress is very much increased. So certainly that issue is out there and alive and well and needs to be addressed.

In terms of whether it is harder to run public education campaigns, that is a difficult question to answer. Most of our community education campaigns are not scattergun, as it were, talking down the radios or whatever. Most of them are very specific campaigns that are done in conjunction with the Queensland Chamber of Commerce and Industry or the hospitality industry or the police service. Those people are by and large not too affected those debates. They want to sort out problems that they have got in their organisations or within their industries. As far as I can say, as a general proposition, that has not changed.

The media tends to invite you to speak more about some issues precisely because of political correctness debates and it creates a few problems, in terms of tactics and strategy, as to how you frame what you say and whether one should do that or shut up about some issues. So there are those problems. The only thing that I have noticed, and I think this has gone away, is that immediately after the federal election—I think this would be entirely to be expected and there would be similar shifts no matter what change of government had occurred—there were a number of respondents, in particular, trying us on really.

Senator BOLKUS—The third part was in relation to the problems with section 126 and whether there are any lessons for us in terms of the proposed bill.

Mr Briton—In the Queensland Anti-Discrimination Act 1991—and this is an offence, so there are penalty provisions that go with this—section 126 says:

A person must not, by advocating racial or religious hatred or hostility, incite unlawful discrimination or another contravention of the act.

So in any event it is limited to racial and religious hatred, but it is a two-part test. For there to be an offence somebody would have to establish that there has been not only advocacy of racial or religious hatred but also an inciting of unlawful discrimination or hatred. In principle, for example, this does not cover the humiliation, the hurt, the distress that might be caused in an audience, whether they have been assaulted. There may not have been any functional expressions that can be directly attributed to the remarks, that is the problem. It is that onerous a test so that it leaves all the humiliation there unaddressed, unless there can be that very onerous two-part test satisfied. As I read the proposition in the bill before you, it is a single-part test, which is easier than this one.

Ms Couldrey—Senator Bolkus, were you wanting us to provide more information about the differences between federal and state legislation?

Senator BOLKUS—Yes.

Ms Couldrey—They are quite significant across a whole range of grounds, areas and definitions. So if the committee wants that, we can certainly provide it.

Senator BOLKUS—That would be great.

CHAIR—Yes, we would be grateful if you could do that. I have a couple of final questions. Should the definition of ‘sexuality’ include heterosexuality in the current bill that we are looking at?

Mr Briton—I think so. I made the comment earlier that one of the unintended consequences is the coyness, as it were, about protecting gay people in Queensland when this legislation was drafted was the use of the words ‘lawful sexual activity’. In fact, that has been relied upon to some extent recently by heterosexuals in that circumstance where two people in the one workplace form a relationship and then a boss says, ‘We do not have couples working here.’ So in that sense there is that sort of discrimination that people suffer. For those sorts of reasons, I think heterosexuality should be covered. There would also be some circumstances, although these would be somewhat complicated in terms of special measures provisions and so on, where there could be discrimination within the gay and lesbian communities against heterosexual people. Some of those issues were hinted at by your previous witness, in the context of bisexuals.

CHAIR—You may not know the answer to this question. Is there a liaison unit within the Queensland police that deals directly and distinctly with the gay and lesbian community and the bisexual community?

Ms Couldrey—Yes. I understand there is a police gay, lesbian, bisexual and transgender liaison committee. Other groups who have more expertise in this area and who perhaps sit on the committee may have some more information. I do not think they have dedicated liaison officers, but they certainly have officers attend those meetings on a regular basis.

Senator WOODLEY—They certainly have an Aboriginal liaison section.

Ms Couldrey—That is right. They have dedicated full-time Aboriginal liaison officers, as well as two Vietnamese community liaison officers. But as far as I am aware, no.

CHAIR—Did you say that future witnesses would be able to tell us more about that?

Ms Couldrey—I imagine that the association that is coming on in the next couple of sessions will probably be able to—

Mr Briton—That is ATSAQ—the Australian Transgender Support Association of Queensland.

Ms Couldrey—Yes, they probably would as well. I am sure they attend the

committee.

CHAIR—Finally, you could take this on notice. If you could provide the committee with any of the public educational type materials that your office has available at this time, that might be of assistance to us.

Senator COONAN—I am sorry about this, but you have really excited my interest now in the definition, section 126. Do you have a copy of what is proposed in the Sexuality Discrimination Bill? It talks about certainly a single test; but it just worries me that the way it is framed would also be fairly difficult, because it is talking about inciting hatred, serious contempt, severe ridicule and these are very difficult concepts to grapple with. Is it objective—ridicule—and how serious does it have to be, or is it subjective? If you were trying to work up a case on that, I think it would have some difficulties there that maybe we need to look at again.

Ms Couldrey—I think that, technically, it is very difficult to draft these sorts of provisions. I think that was seen in the drafting of the federal Racial Hatred Act, where the same difficulties were experienced in trying to get the balance between racial hatred and the right to have legitimate public debate about issues.

Senator COONAN—I would just like your view about this. As I said, unfortunately I was not part of the debate last year because I had not been elected then. Would there be any advantage in talking about contempt and ridicule and then just saying, ‘This should not apply to a trivial instance,’ or something along those lines?

Ms Couldrey—I think that there are other parts of the bill which actually go to the ability to decline complaints as frivolous, et cetera. We believe trivial is a different ground for rejection of complaints, and we have had this debate in relation to the Queensland act. It may be that that could be looked at in terms of the grounds that are available for declining complaints.

Senator COONAN—It just concerns me that we are talking about contempt and ridicule. ‘Serious’ and ‘severe’ are such subjective elements.

Mr Briton—Yes, they are problems and they would need to be thought about. Again, I would caution against picking up problems like that and, as it were, making too much of them so the baby goes out with the bathwater. In that context, I would draw your attention again to the discussion of sexual harassment. Years ago, there were exactly the same discussions going on about sexual harassment. Sometimes I would tell jokes or something out of that same sort of thing—what is harassment and what is not? In fact, the sexual harassment provisions in the Queensland act weave their way through these conceptual problems pretty well. Of course, there will be the occasional matter where it is difficult to tell, but then there is the objective person test. You do not have to intend to sexually harass someone; it is just a matter of whether a reasonable person would

appreciate in all the circumstances if this was unwanted or unwelcome.

Senator COONAN—It is the outcome as much as anything else?

Mr Briton—That is right. Again, I think it is like coming back to the free speech issues we were talking about before. While we could talk about the conceptual difficulties around forms of words here, in practice, in the vast majority of cases, it would be relatively easy for most people across the political spectrum to agree on what was or what was not.

Senator COONAN—So your view is that, as long as the concepts and the parameters are there, commonsense prevails in how it operates?

Mr Briton—I think so, as long as it is drafted in such a way that weird things do not subsequently happen to it when it goes to the courts.

Senator COONAN—Thank you. I am sorry about that. I just had not had the act earlier. I should have asked you earlier.

CHAIR—Mr Briton and Ms Couldrey, thank you very much for your attendance and for the assistance you have given to the committee.

[10.16 a.m.]

ROSEVEAR, Dr Wendell John, Doctor, Gay and Lesbian Health Service, Gay and Lesbian Alcohol and Drug Support Group, Men Affected by Rape and Sexual Abuse, 38 Gladstone Road, Highgate Hill, Queensland 4101

CHAIR—I welcome Dr Wendell Rosevear. You have provided the committee with a written submission this morning. Is it the wish of the committee that the submission be received as evidence and published? There being no objection, it is so ordered. I now invite you to make an opening statement. At the conclusion of your remarks I will invite the members of the committee to address questions to you.

Dr Rosevear—Thank you very much for the chance to present here today. I would like my meeting with you to generate understanding. I am a gay person, a Christian and a doctor. In resolving each of those dynamics of my life I have had to work through the issues of self-acceptance and coping with the fear that my honesty would meet rejection and therefore discrimination.

I work in prisons and I have worked in prisons since 1975. I am exposed to a high level of suffering. Our clinic does most of the HIV/AIDS work in Brisbane in terms of home care, general practice care and terminal care. I am also very active in helping people recover from alcohol and drug problems, and in suicide intervention. I usually act to facilitate the prevention of between one and five suicides each week and in the last four years 14 of my patients have died by suicide. Seven of those patients had unresolved issues about sexuality or sexual abuse and sexuality. I cannot see that level of suffering and not speak out about issues of acceptance and honesty.

I guess you can see from my submission that my work has been well recognised by my receiving the Brisbane Citizen of the Year award and also the Australian Medical Association award for best individual contribution to health care in Australia. That is really, I guess, because I work at the coalface and therefore I am exposed to issues. I have had to learn to be accepting of people and create a safe environment where they can be honest and therefore achieve resolution of their pain.

The crux of my submission would be on page 2 where I said I know you cannot legislate acceptance or honesty but what the Sexuality Discrimination Bill does is say that Australians value honesty and respect those who have the courage to be honest, by showing them equality. I see that as a really healing dynamic, a dynamic that actually could act to prevent people feeling fear of rejection or feeling that their honesty would meet discrimination or isolation within their current community or family support networks.

I have actually been sacked in my job as a doctor in a church-run clinic and that was because of my sexuality and my entering a monogamous committed relationship with

my partner, Geoffrey, who subsequently died of AIDS in 1994. I respect the church's right to be honest about their beliefs. For many years they were not able to actually state their beliefs but when they were honest I was honest in response to that. I am very respectful of their right to be honest but equally I am sad that their orientation could not be accepting of my honesty; and that resulted in my losing my job. I have subsequently resigned from that church because I cannot be a hypocrite. I did not choose to be gay but I do choose to be honest and that is the way I deal with those issues in my life.

I would like to draw some specific reference to the suicide statistics in Australia in 1994. I have obtained these statistics from the Australian Bureau of Statistics. You can see there that 1,830 men and 428 women committed suicide in 1994. These are the most recent statistics available. That makes a total of 2,258 people. If we compare that with motor vehicle accidents you see that suicide is a major cause of death in Australia.

I have actually calculated the rate of suicide for each state. Before I go on to that I would like to draw your attention to the relative incidence of suicide for men and women in different age groups. In the age group of 15-24, young men commit suicide at the rate of 6.5 compared with one for women; and at the age of 25-44 those men commit suicide at the rate of 3.6 compared with one for women. We also know that suicide rates in country areas are higher than in city areas.

When we look at the suicide rates for each state, especially relevant is the issue for young men. We can see that Tasmania and Western Australia in 1994 had the highest suicide rates in Australia. Previous figures showed that Tasmania and Queensland had the highest suicide rates. I would like to draw a correlation between these suicide rates and the perceived levels of homophobia in those states as measured by those states' legislative processes. Queensland and Western Australia were the last states to decriminalise homosexuality and Tasmania still makes homosexuality illegal.

You are aware that last week the Western Australian parliament rejected the anti-discrimination bill. With these attitudes it makes it very difficult for people who are homosexual to feel that they would be respected or safe in being honest about their sexuality. If we cannot be honest about our true self it means that we have internal tension that honesty would meet rejection. They are very core issues that really strike at the heart of being a person, especially if you are a male, because you feel you have to meet expectations or be tough, or have an external shell and therefore experience isolation.

In my work I seek to provide places where people can be honest and get respect and relief, and therefore not have to kill themselves. I work with alcohol and drug problems, both in the community and in prison. Eighty to 90 per cent of people in prison have an alcohol or drug problem. I find that lack of acceptance and lack of honesty in sexuality issues are common denominators in people seeking relief through using chemicals to get relief from their personal pain. I really speak out to build a culture where people are accepted as being honest—and that is the crux of my message.

There are other areas where I work with patients and see them suffering because of discrimination. One is teachers. They feel that if they are honest they put their job in jeopardy. The other is people in domestic violence situations where they feel that their access to support or safety is less than for people who are heterosexual.

The third area is in HIV prevention. Since 1991 I have been telling the prison authorities that their segregation policy is less than adequate in preventing the spread of AIDS in prisons because HIV positive people have sex with HIV negative people. I believe in each person being valuable in making healthy decisions to protect themselves, either in the trust relationship or by using condoms. But condoms are banned in prison and so, despite that knowledge, AIDS was actually being transmitted in Queensland prisons in 1994.

All my lobbying, both to the prison's minister and the Attorney-General, about laws and about sex in prisons—and to the Corrective Service Commission—has produced no result in terms of people being able to achieve safety in prisons. Prisoners say to me, 'It's our life', and I really feel the responsibility for personal health has to rest with the individual.

I cannot find any understandable reason why condoms are not allowed in prison other than entrenched homophobia and pseudo-moralising where people feel they need to be in judgment of other people's sexual choices. I think if we are going to prevent AIDS we need to affirm the value of an individual and support them to enact the information that they have.

I work with both victims and perpetrators of sexual violence and sexual abuse, and I find in working with those people that only when people come out of denial and feel a sense of value are they free to value other people and therefore recover from abuse or find themselves free not to perpetrate abuse in the future. I treat men and women who have been bashed in sexual violence and I really feel that our society needs to say, 'We do not accept that; we value the individual.' I think respect for honesty is a hallmark of Australians being Australians. I would like it to be equated with people being seen to be fair dinkum Aussies in that we stand up for honesty and respect it. Thank you.

CHAIR—Thanks very much for your submission. I would just like to start the questioning by following through on your assertions regarding suicides and suicide rates. Firstly, were the figures on motor vehicle accidents just put in there for comparative purposes?

Dr Rosevear—Yes, I would like to highlight that in terms of what is actually causing deaths in our society because sometimes we tend to prioritise motor vehicle accidents over suicide as a cause of death. I would just like to give it perspective by putting that figure there.

CHAIR—Thanks. I have heard what you said about Western Australia and Tasmania, particularly in dealing with the homosexual laws in those two states. Have you got anything more concrete to base your assertions on, other than the extrapolations that you have engaged in?

Dr Rosevear—There are no good studies in this area and I would be supportive of those studies occurring. There have been some studies in America correlating the higher rate of suicides in homosexual people, but there are no good Australian studies. There are some people currently doing research on that in Mackay. I have also raised this issue with the Australian Institute of Suicide Prevention and they are interested in pursuing it. But really I base my understanding on the high level of suicide behaviour I see and the people that I work with. I really feel that, even in my own work, for me to see 14 suicides in the last four years is much higher than the number the average GP would see. I work with young people who drive their cars and smash their cars trying to kill themselves because they feel that they would be rejected by their families if they told them that they were gay. So, I really speak from my personal experience at the coalface.

CHAIR—Recently there has been a major study done on youth suicides. Did that come up with any findings that would support the assertions that you are making?

Dr Rosevear—I understand that the criticism of that study was that they did not even address the issue of sexuality.

CHAIR—In your extrapolations on the figures, why is there what could be seen to be a dramatic decrease in the Tasmanian figures between younger men and older men?

Dr Rosevear—In my statement I talk about the process of adolescence. The process of adolescence is that you must find a sense of personal value and you must come to terms with resolving your own emotions, not just asking mum and dad to mop up the spilt milk. You must learn how to make decisions for yourself and you must learn how to integrate both your sexuality and relationship dynamics. They are the specific tasks of adolescence. I feel that, because of the enormity of those tasks, without a safe environment where people can be honest in processing those issues they are left just to experiment on their own or to find themselves in the denial or pretence safety zone. So I believe that young men are more vulnerable because of specifically processing the issues of their personal value, their independence and their sexuality.

For men in the age group of 25 to 44, usually they have resolved their issues in terms of entering a relationship. In fact, some of the people I see who are coming out in that age group have perhaps actually been married to try to deal with their sexuality and get accepted by being the heterosexual norm. They are a vulnerable group in that they might leave their marriage because they could not cope with the internal tension of not being honest. So, that is a less risk age group, but it is still a relevant risk group.

CHAIR—Thank you for that. We have as the inquiry has progressed around Australia been told in some instances that there is no need for this type of legislation and that homosexual behaviour is learnt behaviour and with assistance can be unlearned. Do you have a comment?

Dr Rosevear—I have had to process those issues as an individual, as a Christian and as a doctor. I know that I did not choose to be gay. My first sexual awareness was that I was aware of male-male sexual attraction and so I had a choice to be honest about it or not to be honest about it. I do not have personal guilt about feeling gay because it was not ever a choice for me. I have worked with thousands of gay people in my work at the Gay and Lesbian Health Service and I have not met one gay person who actually identified it as being a choice to be gay. I have met thousands of people who have taken the choice to be honest about being gay but I have never met a person who has actually chosen to be gay.

Equally, I have worked with many people who have desperately tried to change their sexuality, to be heterosexual, because they wanted to be accepted. I have not met a person who has been able to change their sexuality to heterosexual. In fact I have dealt with many people who have been through programs such as Exodus. That program is run by a group of Christians who claim to be able help people to become heterosexual from homosexual. Some of those people actually fail that program and then feel very desperate. The program is a program of trying to meet the expectations of the support network as a process of achieving change but if they cannot do that they feel an intense guilt and they might find themselves using denial or dishonesty and have sex in unsafe ways.

People who do not accept themselves are highly at risk of doing unsafe things because they do not acknowledge that they are having sex or that they are gay. One person who had been through that program said they felt that they deserved to get AIDS, which is high risk mentality in terms of preventing AIDS transmission. He was actually quite desperate and felt suicidal. He came to me as a last resort and I said, 'The issue is not whether you are gay or not or whether you are a Christian or not, the issue is that you are a valuable person and when you realise how valuable you are then you will be able to be honest about who you are and not have to feel you have to lie or pretend or deny who you are to feel accepted by any external group whether they are Christians or not.'

In addressing that issue of guilt and choice I have not seen it as a personal choice. I am not sure of the causative factors of homosexuality. Even if we could know the reason why people are gay it does not mean that we necessarily would be accepting of them. We know that skin colour is genetic but it does not mean that in our society we are necessarily accepting of people of different skin colours. So I am saying, 'Let's accept each other for our differences and for our honesty rather than just because we can explain things away.'

Senator WOODLEY—Can I just double check something with you—I am a

Christian, too. One of the claims that is made by many of the churches is that gay people are able to change. That is a fundamental point of disagreement I have with them, having counselled many gay people. I suspected that there are those who have gone through deliverance or other kinds of ministries who have been unsuccessful in that. You are saying to me that you have seen such people.

Dr Rosevear—I have and I find them often quite desperate and often suicidal or depressed or taking high risk behaviours because they are in a state of denial or lacking self-esteem.

Senator WOODLEY—It has certainly happened in a couple of cases where I have been involved in counselling. You would say that you have not yet seen people who successfully have changed their orientation and been able to maintain that?

Dr Rosevear—I am saying that I have worked with thousands of gay and lesbian people, Christian and non-Christian.

Senator WOODLEY—I think it is important to establish that.

Dr Rosevear—I am very respectful of those Christians being honest about their beliefs. I think sometimes they want to believe in God as a magician rather than God as a friend, which is part of the denial of them needing to know that God accepts them. If they need to judge other people I feel sorry for them.

Senator BOLKUS—Can I just follow on from that. Your main message is obviously honesty, acceptance and equality. But one of the worrying things for me through this inquiry has been the extent of the histrionics by some aspects of the church. Your experience is sort of the experience I suppose of many people who have not had that degree of sensitivity shown to them by the institution from which you expect to get it.

The other worrying thing is that, in many senses, we have not moved all that much—or have we?—since some of the early days of law reform in this area in the 1960s and so on. Can you, from your position, indicate whether you think the church has moved on or what the prospects are of more tolerance in some of the main institutions of Christianity?

Dr Rosevear—At the individual level, I have seen some change. But, at the group level, I see that there are power dynamics operating where people want to take a judgmental position. I guess that is a safety mechanism on their part, that they need to get safety out of power. I think Christians make a lot of claims but, if they are actually to model themselves on the person that they are following, he defined acceptance in giving himself and he spoke out for people; in respect of honesty, he spoke out against hypocrisy in judgment and denial. So I think they could practise the attitudes of their leader, rather than just focus on being judgmental which really is not the role of Christians. The role of

Christians is to love rather than to judge.

If sexuality was such a big issue, Jesus would probably have had some comment on it. But he spent most of his life defining what love was, what acceptance was and what honesty was. I am happy to accept that model. You will notice in my statement that I did not choose to name the church that rejected me. That is because I do not want to politicise these issues.

Senator WOODLEY—I was curious.

Dr Rosevear—I do not choose to politicise these issues. I speak to the issues and I want to generate understanding. I think the issues are bigger than politics or bigger than labels. I think it is the issue of us accepting each other as humans. I do not hide the fact of who I am or my heritage. But, today, I really want to focus on the issue of acceptance and honesty. I could have been quite bitter and revengeful from what happened to me. I do not want to be that person. If I can accept me and be free to be honest, I do not want to revert to power games which are unhealthy and therefore destructive.

Senator WOODLEY—I do have a couple of other questions. I do not want to increase your pain, but we have another submission from Dr Reece. I am curious that he appears to have a practice across the road from you.

Dr Rosevear—He does and he will be presenting to you this afternoon at 2 o'clock.

Senator WOODLEY—I wonder if you are able to comment on some of the assertions he makes in a simply objective way. He says in his letter:

The largest database in this country on child sexual abuse, which is held in N. S. W. in the Departments of Health and Family Services also confirms the grossly disproportionate overrepresentation of homosexual and lesbian offenders in the matter of Child Sexual Abuse.

Dr Rosevear—Yes. I guess, by default, I have become an authority on sexual abuse in Australia in that not many people are comfortable even listening to victims. I work with both victims and perpetrators—both male and female victims and male and female perpetrators—so I am very interested in the dynamics of abuse. In fact, in 1992 I presented a paper at the national sexual assault conference in Melbourne.

If we look at childhood sexual abuse issues, in all of the academic studies most people who perpetrate sexual abuse do not identify as homosexual. Probably about 95 per cent would in fact identify as heterosexual. That is looking at the big studies, not just one limited study. The dynamics I see in abuse is where one person would use power over another person trying to get those needs met. Coupled with that you often see a denial process where people are not able to be honest about their value or another person's value,

their limits or their needs, or be able to be honest and say yes or no, or let another person say yes or no. So I think the dynamics are more about personal value, self-acceptance and freedom to be honest than about sexuality.

Certainly, people who are in a state of denial about their sexuality are at risk of using other people to get their needs met. Heterosexual and homosexual people can be using of other people if they do not accept themselves and each other. I am interested in looking at the dynamics of acceptance and honesty, rather than labelling people as bad because of their sexual orientation.

Senator WOODLEY—Okay. I could go on and what I think the Senate is going to end up with is two opinions that are diametrically opposed, and I do not know how we actually ever reconcile them.

Dr Rosevear—I submitted my submission to him, and he wrote to me this morning saying that he would like to have some dialogue with me. In fact, we have had dialogue in the past, and he quite respects my work. And I respect him, because he does care about people and he does want to be honest in his beliefs. I respect him for that, but if that process means we cannot be accepting of and respectful for other people, then I have to say, where are the deficits in our personal needs?

Senator WOODLEY—I had better leave it. The only other issue is that I certainly have done a lot of counselling when I was a chaplain at QUT with gay particularly men, some women, and what rings true is the burden that Christian gay and lesbian people have, a double struggle dealing with Christianity and dealing with their sexual orientation as well. And one of the issues I find for Christians like that is that often gay and lesbian Christians go through every spiritual exercise that has ever been created on the face of the earth, and come out the end either affirming who they are and therefore finding some liberation, or totally screwed up. Is it your experience that Christian gay and lesbian people in fact go through many spiritual exercises, maybe even beyond what other people would do, in order to find some way of changing their orientation?

Dr Rosevear—I guess desperation would be the best word to describe the process.

Senator WOODLEY—That is how it has been described to me.

Dr Rosevear—Our deepest needs are to be accepted and honest, and if our honesty would meet rejection, our survival needs cannot be met. And so we have to find acceptance separate to our rejecting environment, and they are often the people we care about, or they have been our God defining role models in terms of parents or church. And so it really can interfere with our God concept or sense of God being an accepting, loving person. So often gay people will throw the baby out with the bath water, and that is quite understandable in that process.

Senator WOODLEY—It sure is.

Dr Rosevear—And if in that process you have to deny yourself or be dishonest, that really makes you at high risk of being using towards other people or to have anonymous, inconsequential sexual encounters to try and get your needs met. And I guess we see those dynamics with a high level of priests with the using of other people trying to get their needs met, not able to accept themselves or be honest, or fearing rejection. So I think that lack of acceptance and lack of honesty really predisposes people to being using of each other, which is what I call abuse.

Senator COONAN—There was just one area I wanted to explore. In your covering letter, you said that you care for all people irrespective of sexuality, which is very commendable. This morning we heard from a representative of a group which represented bisexual people and transgenders, who gave a quite harrowing tale of being discriminated against by gay people and by lesbian people, so that they really do fall between the cracks in terms of support that is otherwise given to people who find themselves in those circumstances. Do you have any comment about that sort of problem, and do you see people in this category, or those categories?

Dr Rosevear—Yes, I do. I see people of all sexual orientations. In fact, each of the groups that I run, the drug and alcohol group and the male rape and sexual abuse group, is open to people of all sexualities. I explain that you are welcome if you are heterosexual, homosexual, bisexual, transgender or unsure. Unless we create an accepting environment, people cannot be honest, and therefore some people actually want to put labels on themselves as a safety mechanism. And even some people want to label themselves as gay, but perhaps that is just trying to get accepted. They might actually be bisexual and so they find themselves wanting to be accepted by the gay community. I am speaking out all the time to try and generate acceptance in the heterosexual and the homosexual community.

Last year our clinic actually worked with the state government to set up the gender clinic in Brisbane because previously there was no standard of optimal care for people with transgender issues. Our clinic welcomes transgender people and we have actually had a transgender doctor working with us who found our clinic a safe enough environment to make the transition from being male to female.

We actually act to define what acceptance is so that each person can be honest by walking through the doors. We do not have a sign over our door saying ‘gay and lesbian clinic’, because other people might not be able to come in if they thought they would walk out with a stigma or a label. We do not presume that anyone is any sexual orientation, in fact, I always let people identify their own sexuality. I do not say, ‘You are gay, you are straight.’

Two weeks ago when I was working in prison I had a 17-year-old man who had

been admitted after reading poetry in the mall. He actually said he was not sure about his sexuality and he was on a journey of exploration to find himself. And so he was actually processing adolescence. He asked me what I thought he was and I said, 'In fact, I do not know what you are, but I do know you are a valuable person and when you know how valuable you are, you are free to be whoever you are. The issue is not what label you have, the issue is that you are a valuable person.' I was grateful that I could be there to minimise his trauma of being on remand for being in the mall reading poetry. I really feel it is sad that our society cannot be accepting of adolescence and punishes people for adolescent issues.

Senator COONAN—Ultimately, apart from understanding what you are saying, we are looking at what to do with a piece of legislation here. Do you see some value in public recognition in a legislative form of the fact that there are very serious abuses of people who may find that they have got different sexual orientations from perhaps the 'mainstream'? Do you see that as some value? How could it impact, say in your situation with your problems with the church? Would it have any impact at all?

Dr Rosevear—I understand that the legislation means that the church would be exempt and they have the right to be honest about their beliefs. But what it is saying is that as a society we are respectful of honesty and we will value people for being honest and we will not send messages that you will be rejected or discriminated against or be treated as being less. So it is a clear message of saying we value people as equals and that is why I support the legislation.

Senator COONAN—Although there are, as we have just identified, exemptions there where people can have a different view about the value of honesty.

Dr Rosevear—I think that gay people need to process their own acceptance so they can be accepting of people being honest if their beliefs are different. I am supportive of that process, otherwise we get power differentials. The problem is not solved by one person having power over the other, whether they are heterosexual or gay. I am not just about changing the balance of power, I am about redefining the dynamics in terms of acceptance and honesty.

Senator COONAN—Do you see that as one of the dynamics that would have some real effect on high risk behaviour of individuals; for instance, having unprotected sex in circumstances where they know they are going to be at risk. It is an area I think that puzzles people who might not be confronted with that.

Dr Rosevear—Sure. In fact, people do not just have unprotected sex because of the lack of information. Most people know that condoms or trusting relationships will prevent the transmission of AIDS, but people do not get to actually enact the information that they have. The barrier to that transition from knowledge to behaviour is that people need to feel valuable before they get to put in practice the knowledge that they have.

Each of us knows more than what we get to do, but when we feel valuable we get to enact the healthy things that are in our best interests. Unless we feel valuable we feel, 'What the heck?' or 'It doesn't matter' or 'I don't deserve to have a healthy life,' and so we do things seeking relief and need fulfilment that perhaps are not in our best interests. It is almost as if we treat ourselves as victims rather than treating ourselves as valuable. Any message that you are a valuable person and you are equally valuable to the people around you would be facilitatory of achieving a sense of self-acceptance and therefore changing behaviour.

Senator COONAN—How does that work with high risk behaviour where you may be injuring somebody else?

Dr Rosevear—Sure. In fact, some people find themselves in power differentials where they want to put other people down, using power as a way to feel good about themselves. Those people are exhibiting their lack of self-acceptance. Sometimes we will see that manifest, that people might want to bash gay people to prove that they are not gay. I have seen cases like that. It is not the cause of all gay bashings but certainly lack of self-acceptance means that you are likely to use power as an individual, or as a group—and so we see gang behaviour or judgmental church behaviour—where people want to put other people down to make themselves look good.

CHAIR—You state in your submission:

I know you can not legislate acceptance or honesty but what the Sexuality Discrimination Bill does is say that Australians value Honesty and respect those who have the courage to be honest by showing them Equality.

Do you think the bill itself is honest? I ask that in the context of the exemptions which are included in the bill.

Dr Rosevear—I think the bill is acknowledging that your religious beliefs may mean that you honestly hold a view that you could not be accepting of people being homosexual. I think we have got to be equally accepting of those people's honesty as we are of people who are honest about their sexuality. So I am respectful of that process.

CHAIR—Are you aware of the exemptions that are included in the bill, particularly to do with religious bodies?

Dr Rosevear—Yes, I am.

CHAIR—Finally, the committee has received evidence citing the Australian Medical Association as being of the view that anal intercourse is unsafe. Have you any comments on that proposition?

Dr Rosevear—My comment is that any unprotected sexual intercourse is unsafe, whether it be anal or vaginal. I see women who are affected by AIDS from having vaginal sex and I see men who are affected by AIDS from having anal sex. I accept that there may be a higher correlation with anal sex, in that in our culture gay people are more likely to have AIDS than other people, but certainly within other cultures men and women are equally affected by AIDS/HIV. I would like to look at safe behaviour altogether rather than just to stigmatise one behaviour.

CHAIR—Have you got any final comments, Dr Rosevear?

Dr Rosevear—No. Thank you very much for being here today.

CHAIR—Thank you for coming here and helping the committee in the task before it. Thank you very much.

[10.51 a.m.]

LOVNEY, Mr Adrian, Secretary, Queensland AIDS Council, and Convenor, Legal Working Group, Australian Federation of AIDS Organisations, PO Box 3142, South Brisbane Mail Centre, Queensland 4101

CHAIR—Welcome. The committee has received and published your submission, which we have numbered No. 291. I now invite you to make an opening statement, and at the conclusion of your remarks I will invite members of the committee to address questions to you.

Mr Lovney—At the outset I would just like to explain what AFAO is. Our submission sets out fairly clearly what the Queensland AIDS Council is and the work that we do. AFAO is the national organisation that represents the community AIDS bodies, therefore we represent all of the AIDS councils around the states and territories and also the injectors groups and the prostitute collectives. AFAO has a national role in terms of fostering policy development and advocating development at a national level in so far as AIDS policy is concerned.

In so far as both QUAC is concerned and AFAO is concerned, we would acknowledge at the outset that we broadly support the bill. There are problems with the bill, and our submission raises some of those. But I think that, importantly, we recognise that the bill is a very important first step and that it is a good place to start.

I know that jurisdiction is a bit of a pointy issue around the place. I do not think it is valuable for me to discuss issues of jurisdiction at any length. I think that the committee has received evidence from people who are far more eminent than I am in these areas, and I must admit that that evidence is conflicting. Certainly the Attorney-General's Department would disagree with HREOC, and I think we explored that at some length in Canberra.

Suffice it to say that, from our point of view, we firmly are of the view that the constitution, in conjunction with the ICCPR, can support this bill in so far as it relates to transgender issues additionally. We think that if the UNHCR can accept that sex includes sexuality, then the committee should feel comfortable and the parliament should feel comfortable that it would also include things like transgender status as well.

I would like to raise two specific matters that have not been covered in our submission, mainly because they were not apparent at the time that I made that submission. The first relates to the genuine need for this legislation. Apart from looking at any issues about whether there should be any Commonwealth type sexuality legislation, I think that one of the premises that underlie this bill and some of the criticism that has been made of the bill is that it duplicates existing state mechanisms. No doubt the committee would have heard evidence this morning from the anti-discrimination commissioner that that legislation is no longer safe. It is certainly under threat in Queensland, only last week

we saw it rejected by the Western Australian government and Tasmania has still refused to enact that legislation. So I think that nexus between state and Commonwealth legislation needs to be removed. I do not think you can connect the two of them.

The second issue I would like to raise, which I have noticed after looking through the submissions that the committee has received, is the amount of reference to HIV/AIDS in terms of the submissions. I think there was a form letter of some kind circulating around rural Victoria. I have seen a statement that has come up in a number of the submissions that says, 'Eighty-two per cent of people with AIDS are homosexuals and therefore we do not think you should enact this legislation.' It is certainly around the place and I think I have found it in about 30 or 40 submissions that I have read to date.

Actually, I fail completely to see the logic in that argument. I do not understand where it comes from and I do not understand what it is trying to say. I think what it is trying to say is that, because HIV status is so intrinsically connected with homosexuality, we should not encourage anything that would make being gay easier; even to the extent of recriminalising homosexual activity, we should and prevent the spread of HIV by preventing homosexuality. I think that is what the argument is.

We would argue that the opposite applies, we would argue that that is the wrong way to look at it completely. There are really two very good reasons why this bill is supported by the need to reduce the impact of HIV transmission. The first is that we have already heard evidence this morning about people's ability to make and sustain behaviour change when they are marginalised and oppressed. We think that the AIDS Council's ability to achieve sustainable behaviour change and to reduce the transmission of HIV is prevented by the extent of discrimination, vilification and oppression that homosexuals face on a daily basis in this country. That is the first reason.

The second reason is the impact of discrimination upon people who are already living with HIV. It is certainly true to say that people who have HIV are by and large gay, and they are recognised as such. Therefore, when somebody comes out as a HIV positive person then they are going to be discriminated against on the basis of their sexuality and/or combined with their disability.

We see that on a daily basis. We see people who are denied access and entitlement to their superannuation contributions. We see people whose wills are changed for them by the courts after their death because they are challenged by family. We see a whole range of areas where with people living with AIDS, their lives are impacted in a substantial way by the entrenched and systematic discrimination that gay people face in this country.

They are the two issues that I would have liked to have highlighted coming out of that submission. Once again, we would like to say that we do broadly support the bill. We think that the bill is a really important first step and we see it as achieving some really good things for us. Subject to the criticisms that we have raised, and that a number of

other groups have raised, we support it and recommend it.

CHAIR—Thank you very much. In your submission you noted, and spent some time on it, that discrimination and violence against gays and lesbians undermines the work of the council. Can you expand on that in some detail?

Mr Lovney—Sure. People will not access services and people will not access assistance from us because they are frightened of being abused and they are frightened of highlighting to the community their own sexuality. What we see is that people who are marginalised and oppressed will not identify with the community and they will, therefore, not adapt mechanisms and not adapt behaviour which will ensure their safety.

Our work is compromised because there is a wide range of people who, because of the extent of the discrimination that they would suffer if they were to come out and accept their sexuality, choose not to. It is hard for us to identify them because they do not attach to a gay community, they will not identify as a homosexual person, or they will not identify with the council. We find it hard to identify them.

It is also hard to educate them because one of the markers of community development, which is the principles upon which Australia's HIV response is based, is that by supporting a community to grow together and by supporting a community which is attached then we can educate those people. It is far harder to educate disparate groups of individuals on the basis of behaviour which is either illegal or, at the very least, they are subject to discrimination on the basis of their behaviour. That is why it is harder for us to do our work.

CHAIR—You commented there on the discrimination that they would suffer if they come out and identify themselves.

Mr Lovney—Sure.

CHAIR—Listening to the words you used, it is not saying that discrimination is actually occurring, is it?

Mr Lovney—Discrimination is occurring. People who are gay are discriminated against on a daily basis. Therefore people will not identify as being gay because they are afraid of that discrimination occurring.

CHAIR—Perhaps I will do this in three parts. I can understand that it could be called violence if somebody came to the centre and were assaulted on the way out. I can understand that it could be called discrimination if someone were identified as having been to the council and some action were taken against them because they had been there. But how can someone assert and claim discrimination when they choose not to attend because they might be discriminated against, in the sense of the words that you put in your

submission?

Mr Lovney—I am sorry; I guess I misunderstood your initial question. I was explaining in some sense broadly how the work that aid councils do generally around Australia is compromised by sexuality discrimination. At an individual level, in terms of people's willingness to access our centre, I would say that that would not be as great a problem, because we have taken steps which would reduce that. We do not advertise our existence. We do not have in neon lights outside our place, 'This is the Queensland AIDS Council. Anyone who wants to engage in some poofter bashing, please congregate around the front steps.' But certainly we have seen that and certainly, for example, the Tasmanian AIDS Council has seen examples of interaction between people who would oppose their activities and people who are accessing the centre. So in that sense, yes.

We would not say that at a daily level and at a tangible level in Queensland people are being discriminated against for accessing us physically. What we are saying is that at a general level, at a global level in Australia, our work is made that much more difficult by the entrenched systematic discrimination that gay people face on a daily basis.

CHAIR—Thank you for that clarification. Your submission also mentions the *Draft third national HIV/AIDS strategy*. When is that likely to be finalised and released?

Mr Lovney—I think the Commonwealth's timetable is different from the community's timetable. I think it is fair to say that the Commonwealth Department of Health and Family Services believe that it will be released very shortly. Certainly, when they released their final draft, they thought that it was in pretty good shape and that it would be signed off very soon afterwards. In fact, they were talking about it going to Cabinet some time in September. After a range of preliminary consultations around the country, indications are that it is unlikely we will see anything until at least early next year, because there are substantial concerns that the AIDS councils have raised in terms of the program of mainstreaming HIV into normal sexual services. So the answer is next year.

CHAIR—Perhaps you could expand on your comments about the exemptions that are contained in the Queensland act. Could you compare them with the exemptions which are included in the Sexuality Discrimination Bill that this committee is looking at.

Mr Lovney—One of the exemptions that we find particularly problematic in terms of the Commonwealth act is the religious exemption. At the outset, we should say that we accept the need for the religious exemption, but we think it is too broad in its operation.

One of the things that concerns us is the growing extent to which the church and religious organisations are delivering services. Therefore they are paid by the government to deliver services. Therefore we see nursing homes and hospitals which are run and funded by government—but which would classify themselves as religious. Probably one of

the most tangible examples would be the Salvation Army, who do case management work for the Department of Employment, Education and Training. They would see themselves as falling within this exemption. But they are actually performing a task for the government and they are actually engaging in case management. So that is an example where you see that crossover.

We would argue that the recommendation as it currently stands would do nothing to prevent an organisation such as the Salvation Army from actively discriminating against gay people in terms of the services which they are publicly funded to perform on behalf of the Commonwealth. Therefore we would argue that the religious exemption should be confined to include, if you like, the traditional occupations of the church in terms of their teachings and their tenets and their activities, and not the broader activities which churches are today engaging in. So that is one of our fundamental concerns with the bill.

Senator COONAN—I would like your assistance, if you can give it, in the area of insurance and superannuation. It is a vexed area that has been around for a long time. Of course, there is an exemption once again in the proposed legislation. I want to discuss with you how an insurance company might risk rate gay behaviour in a similar and non-discriminatory way to the way they rate smoking or asthma or some pre-existing condition that is not an automatic exclusion but which gives some recognition to the fact that there is some behaviour that needs to be taken into account for the purposes of underwriting. I have not got my head around it but I wonder whether you have?

Mr Lovney—That is a good question. We have been engaged in that process for some time. I think we have acknowledged in our submission that underwriting is a risk business. We understand that there are risks involved that insurers would want to take into account in calculating premiums or, indeed, in deciding whether to offer insurance at all. For quite some time we have been engaging at a national level in that process of forming some sort of risk analysis and maybe some disclosure standards with the Life Insurance Federation of Australia, with not a lot of success.

There are a number of models that are used throughout the world. One of the interesting models that is used I think in Europe more widely than it is used in Australia is a model which examines behaviour rather than activity. Currently what insurers often ask is, ‘Do you identify as homosexual?’ and ‘Have you ever engaged in male to male sexual activity?’ Those questions were framed a long time ago, right at the beginning of this epidemic. The answers to those questions are not really enlightening, because there are a range of people who would identify as homosexual but who do not see themselves as being at risk of HIV, either because they are engaging in safe sexual activity or they are in a monogamous relationship or, indeed, they are not engaging in sexual practices of that kind whatsoever.

There is another fallacy that underlies that whole thing. The question, ‘Have you ever engaged in male to male sexual activity?’ does not make any reference as to whether

it is safe, or to whether that activity has been with the same person for the last 10 years and you have both been tested HIV negative on a number of occasions. It does not explore any of those issues. Some of the overseas models actually do explore that and talk about the context of the relationship.

Senator COONAN—So they look more at outcomes or behaviours?

Mr Lovney—They look more at behaviours rather than saying, ‘Just because you are gay, you are therefore at risk.’

Senator COONAN—Yes, I understand that.

Senator BOLKUS—When you mention overseas models, do you have any in mind that you can refer us to?

Mr Lovney—I think it is the French model. The French model that we have looked at is particularly appealing from our point of view. As you can understand, I have not got my head around it a lot either; superannuation is a bit complex. But I can undertake to provide the committee with some information about that.

CHAIR—You dealt with this subject matter in some detail in your submission. You mentioned the Trowbridge report, which was made public in October 1993. Has it just died from there? Is anything further happening with that report?

Mr Lovney—That was the report that basically triggered off this process of trying to formulate guidelines. Basically the release of that report started this process and, as you have indicated, some three years later we still have not concluded that process; we are still trying to get some guidelines in place. So not a lot has happened since October 1993. There is still wide evidence of the use of exclusion clauses by some insurers, although some have taken the initiative, like National Mutual, which has dropped those exclusion clauses. There are still significant numbers—importantly, some state and Commonwealth public service funds—which still do use those types of exclusion clauses.

Senator BOLKUS—Do you have some problems with the term ‘lawful sexual activity’?

Mr Lovney—We do have some problems with that. I guess it was a compromise provision in Queensland. What it purports to do is define groups by reason of their sexual activities rather than by reason of how they identify themselves. So you are referring to an external source. It presumes that sexual activity is the only thing that defines a relationship. Therefore, people are defined by the nature of the acts that they engage in. But most importantly, there is some concern about whether it would prevent discrimination on a daily basis.

Our submission says, for example, that there was a recent case in Queensland where two men holding hands in public were not afforded protection under the current Queensland act because their behaviour did not relate to lawful sexual activity. A similar example might be, say, two people trying to book a motel room together. Does that relate to their sexual activity and, if they were discriminated against on that basis, then would they be covered?

The initial approach of the commission in Queensland was that, yes, that was the case. But we have seen some disturbing signs recently where the commission is beginning to explore whether lawful sexual activity does in fact cover behaviour which does not involve sexual activity at all. So yes, we have got some real problems with it. But it is better than having nothing, which is also on the cards as well at the moment.

Senator BOLKUS—Is there anything better than ‘lawful sexual activity’?

Mr Lovney—We like the model that talks about bisexuality or homosexuality specifically. The New South Wales model, I think, does that and actually refers to the behaviour rather than referring to some sort of obtuse concept.

Senator BOLKUS—Would you include hetero in that as well?

Mr Lovney—It is an interesting question. Personally, I find it offensive, because I find that it gives some sort of connotation that heterosexual people are discriminated against in their everyday lives. That sort of an assertion is just ridiculous. It is offensive to me personally because it ignores where we have come from. It ignores the position that we are coming from, which is the position from behind the starting line.

The political reality is somewhat different. I accept that it is politically important for this bill to offer protection for heterosexuals also because a range of people see this bill as providing us with extra rights, with something over and above what they have. So whilst I find it offensive and trite, we do not oppose its introduction.

However, I might say that we would recognise that there have been significant concerns about this raised by the New South Wales constituency in relation to the special measures clause and how far that goes in protecting events such as Mardi Gras, which are intended as a celebration of the diversity in the community and which could potentially be under threat. Following the passage of the Sex Discrimination Act, anyone who worked around HREOC would be familiar with the case that went on for some years, of the guy who took the commission because he was trying to get access to a women’s health centre. I think that went on for about four years or something. If this bill were to be passed in its current form, I guarantee you that the first complaint that the commission would receive would be a heterosexual wanting to attend Mardi Gras.

Senator BOLKUS—Some do.

Mr Lovney—Yes; a range of people do. But it is that sort of action which is intended to challenge the assumptions upon which the act is based.

Senator BOLKUS—Although it is a probably wrong use of resources, would it be such a bad thing anyway if that were to happen and that got it out the system, in a sense?

Mr Lovney—I do not even live in Sydney, but this whole issue of people attending Mardi Gras is a much vexed one, and people have spent a lot more time looking at it than I have.

Senator BOLKUS—Tom Veivers wants one in every suburb.

Mr Lovney—Mick Veivers? I think he particularly wants one!

Senator BOLKUS—Sorry; Mick Veivers.

Senator WOODLEY—There is a difference! They do belong to different political parties.

Mr Lovney—I am glad you said that and not me!

Senator WOODLEY—I have a writ against me by Mick Veivers.

Senator BOLKUS—Who the hell is Steve Schumanski, and what have you done about him?

Mr Lovney—We are covered by privilege, aren't we? Mr Schumanski is a particularly vicious, offensive, hateful and destructive individual who was employed in New South Wales on the border there. His broadcasts, transcripts of which appear in our submission, speak for themselves.

Senator COONAN—Does he still have a job?

Mr Lovney—Not at that radio station, but he is employed in the New South Wales broadcasting industry, yes.

Senator COONAN—Do you know where?

Mr Lovney—I do know where; yes. The Queensland AIDS Council, along with the AIDS Council of New South Wales, launched an action under the New South Wales Anti-Discrimination Act in relation to vilification. That case is currently proceeding, and we have been looking at that. We have also launched an action with the ABA in relation his conduct, and we are also pursuing the licensee.

I would just like to raise the point that we were very lucky in this instance, because Mr Schumanski was in fact located 10 kilometres south of the border, and people in New South Wales were willing to run that action. But I might say that, if that action were to occur 10 kilometres north, then potentially there is not a lot that we could do about it because, under Queensland law, we are not afforded any protection. Under this bill, we would be able to do something about that and about some of the other material that we see: not all of it, I might add, but at least some of the other material. So, we see this bill as being really important and as allowing us to do something about this. I do not think that any reasonable person would read this material and say that it is acceptable.

CHAIR—I just wonder if we might stop there. The fact that it is the subject of court action causes me a little concern, so we do not want to talk about it.

Mr Lovney—It is currently pre-conciliation, so it is not sub judice in any way.

CHAIR—Okay. All right.

Senator BOLKUS—You do not have to say where, but is he still doing talk radio?

Mr Lovney—No, he is not doing talk radio, but he is involved in an on-air role in a broadcasting capacity. We know where he is, and we are listening to him.

CHAIR—If you have concluded, can I move on to superannuation and get your comment? You are supportive of the Senate Select Committee on Superannuation, which made recommendations in regard to benefits arising out of superannuation. Do you think the current bill that this committee has before it overcomes the problems with superannuation?

Mr Lovney—We think it would. We think that the act's amendment would force the amendment of SIS to take account of this. Currently, the bulk of the problem arises from the use of the word 'spouse' in section 10 of the SIS legislation, which talks about notions of dependency and spouse. That is where our problem comes from. Our comments are located on page 8 of our submission.

The whole issue arises because, currently, superannuation funds are required to comply with this act to achieve their tax benefit status. What this act tries to do is regulate the superannuation industry and it prevents the payment of benefits to other than family members as traditionally defined. Therefore, if a person attempts to leave their superannuation benefit, their death benefit, to somebody who is not a dependant or a spouse as defined in the act the fund would be in danger of losing its tax benefit as a super fund, so they do not do it. That is the nub of the whole problem—that use of that word 'spouse' there.

We would argue that the SIS should be amended and we have been arguing that

for some time. In fact, I understand that there may be some move on that in the near future. But even in the absence of that occurring we would say, yes, this bill would fix that problem for us—or it would fix one of those problems for us anyway.

CHAIR—This also relates to Senator Bolkus's earlier questions about the definitions. It has been put to us in other parts of the country that the term 'homosexuality' included in the definition is not enough—that it should have a definition for lesbians or a definition for gay men. Have you got views on that?

Mr Lovney—I think it would be important that that does occur, yes. I think you must respect our position as an AIDS organisation. Predominantly we work with the gay community and I think we have acknowledged that at the start of our submission. I know that there are other groups with which I am involved also that would have views on this, and perhaps those organisations would be better position to answer that question. This does not fall within our area of expertise.

CHAIR—What I think probably does fall within your area of expertise is clause 107—same sex couples. The clause that is in the bill at it is at the moment has received quite a deal of attention so far. I would be interested in your views on it.

Mr Lovney—We would support the clause as going some way to reducing the discrimination that gay men and also lesbians in partnerships face. But it has to be recognised at the same time that a lot of the discrimination we face occurs on a state level and this bill would do nothing to prevent that. A lot of the discrimination that we face on a daily level relates to things like health care. It relates to things like succession laws and intestacy laws. So this bill would not change that. But what this bill would do is show some leadership from the Commonwealth in fixing up their own house and we might hope that some of the more progressive states would also move to change their own acts to incorporate such a clause.

Certainly I think the clause as it would relate to things like taxation and social security would go some way to fixing up the problems in so far as tax is concerned. I am aware that there have been significant concerns about the effect of the clause in relation to social security. It is a much vexed question I suppose. The Queensland AIDS Council's position certainly is that if we are to achieve true equality then we need to forgo some of the benefits which we have enjoyed.

I guess perhaps the only benefit that we may have enjoyed as a result of the existing state of the law is that people may have been able to claim two benefits when, if the law was to be changed, they should get a couple benefit which is less. The Queensland AIDS Council's perspective certainly is that that is acceptable to us. We are mature enough to recognise that if we are going to go forward then there will be costs involved for us. We would support the bill regardless of the effect that it would have on social security benefits.

Senator COONAN—I have one thing I want to raise. It is more of a comment than a question about your suggestion of a genuine domestic relationship as a way in which one might look at a relationship for the purposes of superannuation. You have to be careful, I would imagine, in situations involving gay relationships that that does not preclude people who may not be living together but otherwise are in a very supportive and dependent relationship. Often, the great problem is that if you try and import these notions of bona fide domestic relationships that apply in heterosexual situations it is not necessarily a model or a paradigm that is always suitable in translation.

Mr Lovney—Certainly. There needs to be a lot of work done on that I think. Some have advocated the use of the existing heterosexual de facto model as applying. But we would agree with you that it is not easy to translate those concepts and that what makes up a homosexual family might be defined differently from how a heterosexual person defines their family. So, yes, we would agree with you that there is a lot of work that needs to be done there.

CHAIR—Mr Lovney, thank you very much for your attendance here this morning and for assisting the committee in our deliberations on this bill.

[11.31 a.m.]

CARDEN, Mr Michael John, Religious Affairs Spokesperson and University Liaison Representative, Queensland Association of Gay and Lesbian Rights, 4/249 Beaudesert Road, Moorooka, Queensland 4105

LAWLER, Ms Merran Jane, Legal Adviser, Queensland Association for Gay and Lesbian Rights, 4/249 Beaudesert Road, Moorooka, Queensland

LOVNEY, Mr Adrian, Queensland Association for Gay and Lesbian Rights, 4/249 Beaudesert Road, Moorooka, Queensland 4105

WILDE, Ms Shayne Joan, Industrial Relations Spokesperson, Queensland Association for Gay and Lesbian Rights (QAGLR), 4/249 Beaudesert Road, Moorooka, Queensland 4105

CHAIR—Welcome. Do you have any comments to make on the capacity in which you appear?

Ms Wilde—I am the convenor of QAGLR. I am also the industrial relations spokesperson for the Queensland Association for Gay and Lesbian Rights.

Mr Lovney—I am involved in health.

CHAIR—The committee has received and published the submission we have received from the Queensland Association for Gay and Lesbian Rights. It is numbered 202. I now invite you, individually or collectively, to make an opening statement. At the conclusion of the remarks, I will invite members of the committee to address questions to you.

Ms Wilde—I am going to be making the opening statement. First of all I would like to welcome all the interstate senators to Brisbane, and on behalf of QAGLR I would like to thank you for the opportunity to address you today. From the outset, I wish to foreshadow the possibility of further written submissions from QAGLR in light of recent threats to both the Queensland Anti-Discrimination Act and the Queensland Anti-Discrimination Commission, and the impact of the proposed Workplace Relations and Other Legislation Amendments Bill. I trust that the committee will indulge our providing supplementary written materials on that.

As I enter my fortieth year I am outraged that lesbians, gay men, bisexuals and people of transgender have virtually no rights in their own country. Lesbians, gay men, bisexuals and transgenders are valuable people and members of our Australian society. We come from all walks of life, we pay taxes, we have families, but we have less protection under Australian law than any other marginalised group.

I am going to explain our lack of rights by using a personalised case study. This is not fiction. I am using the case study because people do not understand the impact of bad laws until they understand how they impact on real people. My main example concerns two lesbians and how their parents dealt with the fact that their daughters are gay and have virtually no rights under the law. I have changed the names of the lesbians involved, namely to protect their privacy.

Frances and Di were two lesbians that I met at a lesbian conference. They were partners and had been partners for eight years when I met them. Over the time, I got to know them as friends. Frances had been violently thrown out of home when she was 15 years old by both of her parents. At that time she had not finished high school. She was thrown out onto the streets because one day she decided to tell her loving parents that she realised she was gay, a lesbian. Di's family were a lot more supportive, but at first still preferred not to discuss it too much, 'it' being the gay thing.

Some five years after being kicked out of home, Frances met Di and they fell in love. After six months or so they decided that they wanted to share their lives together. Some 10 years later, Di and Frances were going to come out with us and celebrate a friend's birthday. But Di and Frances never turned up.

Very late that same night, Di turned up at the lesbian bar. She was frantic because Frances had not come home. She had phoned everyone she could think of and had searched for hours, but could not find her anywhere. Some friends left the celebration and went to help Di find Frances. Two days later we found Frances. She was in the hospital in the intensive care unit.

Frances had carried ID which clearly stated where she lived and the fact that for Frances her next of kin was Di. The police ignored this and only contacted Frances's family—the same family who had thrown her out onto the streets as a young teenager and who had refused to have any contact with Frances since they kicked her out; a family that did not know their daughter. When we got Di to the hospital, pandemonium broke out. The hospital staff would not tell Di what was wrong with Frances. They would not let Di see Frances, who was in intensive care. Only next of kin could be admitted. Frances's family sat outside the room, refusing to visit their daughter, holding the power and withholding permission for anyone else to see their daughter. The doctors and sisters refused to give us any information, but the junior nurses did. They had told us that Frances had been calling out for Di on a regular basis. Two days later, Frances died and not one person she knew or loved had been allowed to be with her.

We did not think it could get any worse, but we soon found out what other laws denied us access to justice. Frances wanted to be cremated but her family buried her, and they buried her in a grave that was unmarked because of their shame of having a gay child. They refused to allow any of Frances's friends to go to the funeral and in fact hired two security guards to make sure we stayed out. When Di attempted to get into the

funeral, the police were called.

In her will, Frances had left everything to Di, but the family challenged the will and won. Di and Frances had bought a home together and were paying it off. Frances's family now owned half of that home and informed Di that she could buy them out but at three times the market value. So Di was forced out of her dream home—the place with all the memories. We decided that Frances's family were not going to get anything else so we got everything out of the house—all of Di's and Frances's belongings. We did this because in her will Frances had left almost everything to Di and a couple of things to her friends. But Frances's family were not satisfied and they would not let Di keep any of the memories of Frances. So they had Di arrested for stealing, because they had won the challenge over the will. The law provided no protection for Frances and her wishes.

So out of all this, Di, grief-stricken from her loss of a partner, could not be at the bedside in the hospital, could not go to the funeral, did not get what was left to her in the will and now had a huge lawyer's bill from the will challenge, and a criminal record. Di had a nervous breakdown six months later. She disappeared. She took off and nobody has seen her since. We still do not know if she is alive or dead.

We miss her and we are angry with the legal system which, in perpetrating such injustice, totally destroys people's lives. Through this experience, and the many others we live through and know of, we learn very quickly as lesbians, gay men, bisexual men and women and people of transgender how few rights we have. This is not a one-off experience. These are inhumane laws. Many people vigorously argue that lesbians, gay men, bisexuals and transgenders choose their lifestyles. It is hard to believe that anybody would choose a lifestyle which is full of rejection, oppression, ridicule, vilification, invisibility and denial.

How would you as a parent deal with and react in these circumstances? How do our parents cope with the fact that we are gay and virtually have no rights? Do they support us when we are so horribly and wrongfully discriminated against in nearly every aspect of our lives? Imagine your child going through this. Or, better still, how would you feel if it was your husband or wife lying in that hospital bed? How would you feel if you were unable to see them, if you could not be there to comfort them? And, indeed, how would you feel if you were not allowed to say goodbye? Would you be angry if you were not allowed to attend the funeral? How would you feel if your husband or wife lay buried in an unmarked grave? Would you feel powerless to do anything about it? How angry would you be? On top of all that, you would not be able to retain the property that you jointly owned. They take away every memento from your past together, even including your photographs. If you can imagine that, then you have just begun to walk in the shoes that we walk in every day.

CHAIR—That is what could be described as a pretty horrific opening statement. Do you think that the bill that is currently before the Senate will overcome all the

discrimination that occurred in that story you just relayed to the committee?

Ms Lawler—I think we would be naive to suggest that it would but we recognise that it is a very important step, and it is important for a number of reasons. The first reason is obviously that, at some level, it is going to provide us with protections that we do not currently have. But at another level it sends a very powerful message to the Australian community that we are valuable and that we do have something to contribute and that we need not be vilified or discriminated against. It is probably that aspect of the bill, more than its contents, which is the most heartening to our group.

CHAIR—I can understand what you are saying about the message that the passage of a bill such as this is sending, but in more practical terms what will the bill do to overcome the discrimination that was relayed in Shayne's opening statement?

Ms Lawler—That probably asks for a summary of the entire bill, but I guess it ranges from everything from clause 107, which is a recognition of same sex couples and a validation, I suppose, of that relationship, through to some protections in relation to issues such as superannuation, access to goods and services—those sorts of things.

CHAIR—Would you expand on the views of the Queensland Association of Gay and Lesbian Rights on the same sex couples provisions that are contained in the bill?

Ms Lawler—I suppose we find it a little curious that, in a bill which seeks to regulate discrimination on the grounds of sexuality, including heterosexuality, there needs to even be a special provision which confers rights or recognises the relationship of same sex couples. I guess it is a curious issue from the point of view that it would seem that we have, on the passing of the bill, rights as individuals in terms of protections from discrimination as individuals, but that does not automatically extend to us when we become couples in the same way you can limit discrimination on the grounds of sex—not sexuality, but sex—regardless of whether the person is in a relationship or not. So it is a curious provision.

In general terms, QAGLR supports the notion that same sex couples need to be recognised and validated. There are obviously a whole range of issues which need to be explored around that and they relate to how do you define couples, and that is an argument which spans not only the Australian heterosexual community but certainly the gay lesbian transsexual bisexual community. So it is certainly not an easy issue to deal with, but the very recognition that these couples exist and that they are entitled to some measure of protection is very important as a stepping stone. It is not the solution; it is not the only solution.

CHAIR—Stepping stone? A stepping stone to what?

Ms Lawler—A stepping stone, I suppose, to Australian society recognising that

these relationships do exist and have existed for a long time. A recognition, I suppose, that the Family Court system is in no way capable of dealing with the issues that arise because it has not yet turned its minds to the fact that these couples actually exist, that they have children, that they separate, that they need assistance in dealing with their problems.

CHAIR—The court, from the statement made by the Chief Justice some months ago now, probably has gone some way to recognition, but it is limited in the legislation which governs the operation of the court.

Mr Lovney—What we have seen over the recent times is some referral from the states of power to deal with de facto relationships to the Family Court, and certainly when that happens then the Family Court will be able to govern those relationships, probably in a more satisfactory way than they currently are regulated at a state level. But the states have not seen fit to refer power to the Family Court in relation to de facto relationships which are other than heterosexual, and we would argue that only when that occurs can the Family Court begin to explore what happens when our relationships do break down, as sometimes they inevitably must. In the absence of that happening, we have no protection whatsoever and we are forced to rely upon 18th century notions of dependence in arguing in state supreme courts about whether I have contributed to property or whether there is a constructive trust over our house. So that is what we are suggesting, that this is a stepping stone to that final position.

CHAIR—So can I take it that the final position you are advocating is the recognition of same sex marriages in Australia. No?

Ms Lawler—No, that is certainly not the case, and I guess that that is an argument that we have confronted on many occasions, the slippery slope to recognition of same sex marriages. I personally find that notion offensive because it seems that it is a heterosexual notion that gays and lesbians want to replicate a heterosexual institution. What cannot be ignored, however, is that there are gays and lesbians out in the community today who go through their own ceremonies of whatever description. Some call them commitment ceremonies. But that is not going on to ask for the same rights as those enjoyed by husband and wife who have gone through a ceremony which is recognised by the state and normally by the church.

Senator BOLKUS—Can I go to the question of article 26 in the ICCPR. There has been some discussion about whether that is strong enough to support this legislation. There has been some argument, for instance, put by Attorney-General's Department on whether the convention is strong enough to support the provisions of the bill that deal with goods and services and superannuation. In essence they are claiming that it may not be supported by the external affairs power, but my understanding of the discussion with them was that they were not all that strong on that but they did have some doubts about it. Do you have any advice in respect to that, in respect to, for instance, whether a question of sexuality discrimination is a matter of international concern and as such falls within the

High Court propositions requiring international concern before one can support legislation relying on the external affairs power? Are there any views you might have on that, any High Court cases you might like to cite?

Mr Lovney—I think that you are correct that there has been a certain amount of argument about whether the ICCPR specifically would support this bill. Certainly, your discussion with Mr Burmester shed some light on those issues. We would argue that, on a literal interpretation of the ICCPR, you could prudentially argue that there are a whole range of people who are not supported by the ICCPR. However, if you look at the ICCPR you see that it certainly was not their intention to list extensively each group which would be prevented by the ICCPR. Therefore, it uses phrases like ‘every person’ and ‘or other status’. I think what the UNHCR said in *Toonen* was that that other status is not to be read narrowly. In the event, of course, they decided that sex also covered sexuality. I think that the parliament should be quite clear and quite confident that the ICCPR does form a solid basis for the implementation of sexuality discrimination legislation.

I think that the Tasmanian dams case talks about international concern and about what level of international concern there needs to be. Various developments in the international arena in relation to sexuality are significant and would lead us to the conclusion that this is a matter of international concern. We have seen, especially around Europe, the implementation of a range of laws which seek to protect and recognise same sex relationships. I think that the opponents of the bill are failing to grasp the nettle by saying that we have no jurisdiction to pass this bill and therefore we should not pass this bill.

I think the reality is that Australia has an entire sweep of HREOC legislation such as sex, race, disability and age. I think you could mount arguments that some of those were not supported by a jurisdictional basis either. But somehow they are perceived to be more right and more okay, and it is okay if we protect people who are disabled and it is okay if we protect people who are of a different colour, but somehow this is less okay. So we are engaging in these circular arguments about whether there is a basis for this bill or not. We would be arguing, as HREOC has argued, that if you look at the underlying principles of the ICCPR, you can be confident that there is a solid foundation for this bill. That is our position.

Senator COONAN—I wanted to get your ideas on how one might deal with property rights, particularly in the instance of that very harrowing example that Ms Wilde gave of the Frances and Di scenario. If there were some way of regulating property rights, what would you see as the inducer? Would you see non-financial contribution as being part of the things to take into account or length of the relationship? Without approximating it to marriage, what are the sorts of things that we perhaps should look at in being fair about break up of property and contests with parents and other claims on property? Leaving the emotional side out of it, is there some way that you have thought about approaching that?

Ms Lawler—Certainly all of those aspects you mentioned are matters that, in our submission, should be considered in the division of property, subject to some regime being put in place that would allow us to access a legal system to pursue that. We have a tendency to put the relationships of same sex couples to one side as being something quite abnormal and unusual and without the same basis as relationships between a husband and wife or between heterosexual de factos.

Senator COONAN—Arms-length relationships?

Ms Lawler—Yes, so that we tend to take out all the same elements that we value in heterosexual relationships—caring, compassion, understanding and sharing. There is always this issue of how we divide up the property of same sex couples. Perhaps we just look at financial contributions. That devalues the relationship itself.

Senator COONAN—Is that what happened in this situation? If it was all left to the surviving partner, irrespective of how it was owned, that presumably was the wish of the person. I was just wondering what countervailing considerations were taken into account to reach a different result.

Ms Lawler—I think that, largely, it was the ability of the parents to argue that this was not really the wish of their daughter—that she was in some way misguided.

Ms Wilde—There is the issue of next of kin; they are not covered by next of kin laws.

Senator COONAN—But there was a will.

Ms Wilde—There was a will and it is the same as the superannuation question in regards to same sex couples, both in superannuation and wills. The superannuation trustees can override a will.

Senator COONAN—But in a will, as I understand it, if the house was left, that would have been that, apart from some considerations of equity or other financial contribution. Maybe it is not a good idea to take a specific example; I am looking more at general principle.

Ms Lawler—It is certainly open to any parent, brother or sister of a gay or lesbian person to argue family testate or maintenance provisions, which by and large have the effect of overriding anything that the dying person may have expressed in their will. I would suggest that that is actually what happened in that case.

Ms Wilde—That has happened in a number of cases; it is not the only case we are aware of.

Senator COONAN—Are you making submissions to anyone at all about some regime that might approximate a defacto relationship with a gay or lesbian one?

Ms Lawler—Submissions have been made by various organisations at various stages. The prospect of making a single cohesive ‘this is the model that should be adopted’ type of submission is very difficult, again, because of the difficulties of settling on what is going to be the most appropriate one. Do we go further and recognise that it does not have to be a defacto relationship that is living together to warrant some sort of protection?

Senator COONAN—This seems to be one area which is extremely difficult. Perhaps in a much more piecemeal way they look at superannuation, insurance and specific industries, but this is an area of private regulation of property. I think that is perhaps the last bastion of great difficulty to even be able to formulate some regime that might be workable.

Ms Wilde—The ACT has a domestic relationships act that does cover lesbians, gays and bisexuals. I am not sure about transgenders. The same act is now being considering in New South Wales.

Senator COONAN—A recommendation has been made?

Ms Wilde—Yes, so that seems to be a favoured model at the moment of some groups. At the moment the Australian Council of Lesbian and Gay Rights is going through a process of assessing which one that group will adopt and doing lots of community consultation, similar to what the New South Wales rights lobby did. Whether it be the heterosexual community or the homosexuality community, everybody has differences in their relationships and different views on what position you are to take. We do not think we will ever reach a consensus, but there seems to be a lot of people who do like the Domestic Relationships Act.

Senator COONAN—It certainly seems to be the way in which it is going in New South Wales.

Ms Wilde—So there are models already there and in place, which is different to what I think you were suggesting that we need to develop some. I think there are many that are already on the drawing board.

Senator COONAN—I am just always interested in different people’s perspective on how that might be addressed and whether your group was doing anything separately or different.

Ms Lawler—We have explored other models. Some of the other models which exist overseas are registrable partnerships arrangements and those sorts of things. I guess

that the bottom line, however, is that as a group we support, in principle, clause 107 of the bill as being at least a recognition that there needs to be some regulation.

Senator COONAN—Yes, some public regulation of the fact that relationships are valid, et cetera.

Ms Lawler—But also from a purely logically, economic, productive society point of view, we need to recognise that those relationships break down.

Senator COONAN—And you do not need chaos at the end of it.

Ms Lawler—It seems remiss of government and the legal system to back away and say, ‘Well, that relationship has broken down and it is far too hard for us to deal with it.’

CHAIR—I just want to spend a few moments on the industrial relations aspects of your submission. You mentioned on page 17 the breakdown in the provisions of same sex couples or the family carers leave test case where things have been changed. Would you care to elaborate on what you have included. It is right down the bottom of the page.

Ms Wilde—With regard to family leave, both at the state and federal level, I was involved in coverage both nationally and in Queensland. In spite of the decision that was reached, I am finding that both employers and unions, in reaching workplace agreements, are ignoring the decisions. I am aware that that is both occurring on the issue of lack of education but also there is homophobia involved on the part of some people involved.

QAGLR has been getting quite a number of phone calls from people seeking advice about the fact that we are making a workplace agreement and they have put in family leave, but they have just put in mother, father and children or they are avoiding the whole issue of that decision about household, which is where same sex couples were recognised. In effect, if the workplace agreement goes in without the definition of household or some other form of definition of partner, with the understanding that gays and lesbians would have a right to it, they do not have access and they dip out for the next two years that that workplace agreement is in place.

We are also finding in the review of the award process that existed under current tax that there are lots of provisions that were supposed to remove the discrimination against lesbians, gays and bisexuals. However, transgenders are not covered. In the review of the awards it was quite clear that—even the Sex Discrimination Commissioner made a note to the commission—that some sections were left out. It is hard to say whether it was the unions’ fault or the employer’s fault or if there was a lack of education and people are deliberately doing it. In some circumstances we can prove that people were deliberate in not putting stuff in, but, yes, it is occurring.

CHAIR—On page 19 you talk about the Workplace Relations and Other Legislation Amendment Bill 1996. In your first paragraph you say:

QAGLR is more than pleased that the antidiscriminatory provisions are to be retained.

Ms Wilde—They are being retained in the new act under certain areas. They are being retained in the objects of the act and they are being retained in regard to awards in terms of certified agreements. Anti-discrimination provisions have not, however, been put in in regard to the new Australian workplace agreements. We are very disappointed about that.

At the moment I am writing a further submission to you where I suggest, even though they are retaining the anti-discrimination provisions, that a number of areas in that particular act will subvert those provisions or they will just totally undermine them and they will become ineffective in some of the sections in that act. For example, I refer to unfair dismissals. At the moment, by having those provisions in you cannot dismiss somebody purely on the basis that they are gay. But the new act removes what was in the old act, called the adequate alternative remedy. For example, if you were a Tasmanian or a Western Australian and you were sacked purely because you were gay, you could use the mechanism under the Federal act to access some remedy because the process took you through possibly reinstatement to compensation. You could seek a remedy to do something about that.

However, the new act removes the adequate alternative remedy. I would therefore suggest that it makes the anti-discrimination provision contained in the unfair dismissal section irrelevant because prior to anti-discrimination laws any gays and lesbians who used to go into a commission and say, 'Look, I have been sacked because I was gay' get very badly treated and usually they get no satisfaction from the court system.

CHAIR—We will welcome your supplementary submission at a later time. But if you want some action on the bill itself, it is scheduled to be in the Senate next week.

Ms Wilde—I have been working with all parties on that.

CHAIR—Your agenda is a different one to what we have today. What is happening in the bill in relation to ILO convention 111?

Ms Wilde—In the old act all the convention issues would be tied up to the objects of the act. They have totally removed that from that section. I think the only two sections that they have kept in the international conventions are the termination of employment convention and also family workers with family responsibilities. They have put in a convention for that, otherwise they have removed all reference to international conventions with the new industrial relations bill.

Senator BOLKUS—So discrimination cases have to now go to the Human Rights Commission and then to the Federal Court?

Ms Wilde—By keeping the provisions in the act, it gets a bit confusing because under the objects of the act it still says that you cannot discriminate on a number of grounds, including sexual preference. However, it is unclear what role the employer advocate is going to play because they are tied to the objects of the act as well. I think all gay and lesbian groups are just waiting to see what happens in the Senate next week.

Senator BOLKUS—I did hear the Industrial Relations Minister say that in the future those sorts of complaints could not be taken through the industrial system but would be taken through the Human Rights Commission mechanism. Maybe we should get that transcript at some stage and inform us of it, but that is the avenue, he said, by which complaints will be pursued in the future.

Ms Wilde—It was unclear from the bill in itself where you would take a claim if the role of the IRC is being reduced.

Senator BOLKUS—Is that an acceptable alternative, going to the human rights commission?

Mr Lovney—Well, if it works.

Ms Wilde—No. It is better that if you have that mechanism, yet you had the Industrial Relations Commission there. The differences between the Industrial Relations Commission and going to a human rights commission are that, first of all, you have got a time period, and the time period to go to an Industrial Relations Commission, depending on the jurisdiction, can be within two weeks. So you can seek a remedy or some kind of action. So a person going through that kind of problems, being vilified at work or being sacked because you are gay, you can try and fix that up in a matter of a month.

To go to a human rights commission, you could be put on the waiting list for two years. So the person would ultimately, hopefully, go through less stress by having it dealt with quickly. If they wait and they know it is going to take two years through a human rights commission, they ultimately leave that job, with lots of grief involved. In terms of the people suffering stress, they usually take some time off work and find it very hard to immediately seek another job because of what they have just been through.

Another issue is that I believe that the Industrial Relations Commission carries a hell of a lot more weight, because employers and unions who go through that process, employers are less likely to ignore the Industrial Relations Commission than they are a human rights commission, because they know they have to go back to the commission again and if they do not do the right thing they could fare badly on another case, because the commissioner could get upset. So it is a lot more powerful, and having a union behind

you can be a lot more powerful.

Senator BOLKUS—The impact of the Brandy case, I suppose, means that to actually get a binding determination you need to go to the Federal Court after the human rights commission.

Mr Lovney—Which is incredibly expensive and hard to get there.

Senator COONAN—Although there has now been an announcement by the Attorney that you do not have to start again, that is just an enforcement procedure now through the Federal Court.

Mr Lovney—It will be interesting to see what the High Court have to say about that, because that was their main objection to the entire process to begin with.

Senator BOLKUS—Filing fees, I think, in the Federal Court have just gone up.

Ms Wilde—That is another reason for going to the Industrial Relations Commission. If you go through a union, it does not cost the employee anything, rather than the expense the other way.

Senator BOLKUS—I think we worked out that, for a standard complaint for unfair dismissal, the filing fees for the Federal Court would be about \$2,500. So just keep that in mind as well. That is if the fees go through.

Senator COONAN—But damages are available under HREOC, I think, that are not available under the Industrial Relations Commission.

Ms Wilde—The only advantage in that way is the fact that if you go to the human rights commission, you can get damages for pain and suffering, which you cannot get under the IRC, though you get loss of wages.

Senator COONAN—That is right.

Ms Wilde—I think if people weighed up the stress and the possibility of getting back into the same workplace and having the matter resolved, or even moving on without the stress that you go through waiting for two years for something to happen, it is well worth the pros and cons and costs.

Senator COONAN—Is that a fair estimate, two years, or is it guesstimate?

Senator BOLKUS—It is probably a kind one.

Ms Wilde—I think it is a fair estimate at the moment. The Queensland Anti-

Discrimination Board recently, some documentation I was reading, there was—

Mr Lovney—Two and a half years, and that is depending on the priority which your complaint is given.

Senator COONAN—So you see some value, do you, in the Human Rights and Equal Opportunities Commission as a complaints procedure?

Ms Wilde—Most definitely.

Senator COONAN—You would not want to see it go and keep the Industrial Relations Commission.

Ms Wilde—No, I think the relationship between the two is extremely important. In Queensland, being a conservative state, if I might say, since we have been put into the anti-discrimination laws in 1992 the environment has been a lot easier. QAGLR is getting less phone calls of people being sacked or being tossed out of rented houses or flats. Having the anti-discrimination law there has definitely had an effect on people's attitudes towards the issue, so we have had a lot less complaints about what was going on, things that were generally happening—even bashings in one way, although in another way we have had an increase in bashings—but I would say different from before the anti-discrimination board.

The recent environment has seen an increase in bashings again, where even last week we had a rugby union football team that went out and got drunk all day and then deliberately targeted a gay bar and just started really smashing everybody in sight, so there were several broken bones. But it certainly did, in a number of areas, have an impact. I think these two people could answer—

Senator COONAN—It just interests me because it seems to me that what is being said here is that the Human Rights and Equal Opportunities Commission can have a very good focus and I suppose it is a specialist body, whereas what you are saying is that it is easier if you have got some immediate facility in the industrial relations setting. Is that what you are saying, or am I not reading it correctly?

Ms Wilde—With regard to some issues, yes, but that is in regard to some of the employment issues, unfair dismissals, whereas there is a whole range of areas that employment laws do not deal with that are needed by the commission.

Mr Lovney—I think that is where the commission's strengths lies, in that it has a reputation for its impartiality and its independence. We strongly back the commission as the group that should be looking after this legislation. I think the question that you raised raises some interesting points about what the function of this legislation really is. I think it has certainly been argued by a number of groups that what this does is give us rights that

we can then use to go and pursue our employer or pursue our landlord or pursue anybody else. I think that is really a narrow interpretation of what this act does. This act performs a number of roles. It is preventive because it says to people that this is not okay. It is educative because it sets boundaries for people and says, 'This is acceptable and this is what the government considers to be not acceptable.' At the end of the day, if none of that works it is also remedial, in that it gives people a mechanism by which they can then go and redress conduct which may have offended them or resulted in harm or loss. So there are a number of strands there, but we certainly see HREOC as being very effective, at least when it gets some teeth back, in enforcing this legislation and in looking after it.

Senator BOLKUS—There have been some rulings on family and carers leave cases. You say to us that the problem with those cases is not the rulings but the fact that the rulings as benchmarks in laws have not been implemented. Is that the case?

Ms Wilde—Yes. As I stated before, the problem is that despite those rulings people are ignoring those rulings, either through a lack of education or still through homophobia.

Senator BOLKUS—Do you refer to government departments? Are they implementing their responsibilities under the interpretation of the law through the courts?

Ms Wilde—In regard to the federal Public Service, I know that there are departments which have implemented family leave and have done it—that is, in agreement with the decision. I could not speak on all the departments because I have not been able to do a complete assessment of all the departments.

Mr Lovney—Certainly at a state level, even as recently as last week, there have been instances of departments which have implemented new enterprise bargaining agreements which have not included a provision for family leave.

CHAIR—On a similar vein, I notice that on page 11 of your submission you have said that Austudy is now not available to young people who leave home because they are lesbian, gay, bisexual or transgender.

Mr Carden—Yes. We have had a lot of problems with that. It was always difficult for people who had to leave home for sexuality reasons to get Austudy. But over the last few years it seems to have been tightened up even more as a cost saving exercise, and sexuality issues are not considered at all in terms of Austudy availability. We have known people who have been thrown out of home by their parents when they discovered they were gay or lesbian or transgender. They have been at university and have tried to get Austudy but have not been able to get it. This has not been recognised by DEET. They have had to give up study altogether or go part time and try and take on part-time employment or, more often, go on the dole, because there is not that much work around, particularly if you are just coming out as a young gay, lesbian or, particularly, transgender

person.

CHAIR—Have you got any views on the exemptions that are included in the bill?

Mr Carden—Yes, we do. We are not happy with the concept of exemption, because it does seem to indicate that society does not fully accept that discrimination is not acceptable across the board. However, we do recognise that we live in a pluralistic society, certainly in terms of religious belief. In terms of the structures of religious institutions, obviously there are issues in terms of the state and the laws trying to enforce certain things in that regard. So in terms of religious belief, religious doctrine and the internal structure of religious organisations, in terms of clergy, et cetera, we quite accept that.

We would have great concern if exemptions were to be looked on in a broader area, particularly I think with changes with unemployment, the gender of unemployed people on case management, that case management is likely to be taken on by church organisations. We have great concerns about whether those church organisations would be subject to anti-discrimination provisions in terms of dealing with unemployed gay, lesbian, bisexual and transgender people. The case manager is in a position of considerable power. So we would be particularly concerned about that.

In other areas such as general employment, education, hospitals, health, et cetera, we would be quite concerned if there were exemptions granted. There is also the area of education programs and combating homophobia amongst young people. We have seen programs like that initiated in New South Wales in response to hate crimes and murders. We would certainly encourage those sorts of programs. We would not like to see that students in church schools would be immune from those sorts of valuable programs.

I am a scholar studying religion at Queensland University and have a degree in religious studies. I should also point out that we probably hope that eventually this exemption would be superfluous. Already a number of religious groups are changing their position on sexuality. In particular, the reform and reconstruction branches of Judaism are now ordaining gay men and lesbians as rabbis. A number of branches of Buddhism are changing their perspective and accepting gay, lesbian, bisexual and transgender people; in fact, they are bringing in ceremonies for joining same-sex couples. The Society of Friends has also been changing its attitudes.

The Uniting Church is currently looking at issues of sexuality. Within the Catholic and the Anglican denominations there is also debate under way about sexuality issues. The Uniting Church and the Anglican and Catholic churches in this state have certainly supported us in terms of both law reform and getting anti-discrimination laws up and running. We hope that in the end the exemptions will be superfluous. I suspect that will happen maybe in a century's time.

Mr Lovney—That is very optimistic.

Mr Carden—A century ago they were debating the morality of slavery. In fact even 30 years ago in South Africa, I think, in certain churches you could, from the Bible, justify apartheid but I think the Dutch Reform Church of South Africa has now changed its position on that. So, hopefully, in the areas of sexuality too, that will change.

CHAIR—Thank you for that, but I do not think we will be coming back in a 100 years, not to Queensland anyway.

Senator BOLKUS—Could I just ask one last question. This might sort of reassure people and let them sleep at night. There is an article which is being circulated by concerned people, emanating from Michael Swift and the Congressional Record. I do not know whether you have seen it, but the assertions are, for instance, that homosexuals shall raise vast private armies; the family unit—spawning ground of lies, betrayals, mediocrity, hypocrisy and violence—will be abolished; the exquisite society to emerge will be governed by an elite comprising gay poets; all males who insist on remaining stupidly heterosexual will be tried in homosexual courts of justice and will become invisible men; and they will sodomise in dormitories, schools, gymnasiums, locker rooms and so on. Should we take this seriously?

Mr Carden—That is an ambitious program of reform. But at least this century I would settle for the ability to live secure in my neighbourhood without being bashed. I would settle for the ability to come out at work and not be treated less than favourably. I would settle for the ability to tell my superannuation fund that I want my partner of seven years to get my superannuation pay-out and to know that that will occur. People may like to prophesy about what I really want, but certainly that is not what I want—not this week anyway.

Senator BOLKUS—I raised it because some people are actually putting it to us as a serious concern. It has been written by someone in a gay community newspaper. You can reassure those concerned that this is not legitimate.

Mr Carden—I think it was something that was written probably about 25 years ago in the heydays of gay liberation and the euphoria, I guess you might say, of the wild over the top type approach of shocking society to make the society realise that, hey, we actually do exist. I do not think it was ever written as any sort of serious political platform. I think it was more, you could say, like some of the more extreme, outlandish artistic statements that have happened over the last 30 years in a variety of areas and on a variety of issues.

CHAIR—I will draw this segment to a close. On behalf of the committee I thank you for your attendance here this morning and afternoon and the assistance you have given the committee. We look forward in anticipation to that supplementary submission

which you have promised us. Thank you very much.

[12.27 p.m.]

HOWARD, Mr Peter Dennis, Secretary, Association of Catholic Parents, GPO Box 2040, Brisbane, Queensland 4001

O'DOWD, Mr Michael Gerard, President, Association of Catholic Parents, GPO Box 2040, Brisbane, Queensland 4001

CHAIR—I welcome the representatives from the Association of Catholic Parents. The committee has received and published your submission dated 17 July 1996.

Mr O'Dowd—Have you printed the two attachments to my original submission as well?

CHAIR—Yes, we have.

Mr O'Dowd—The second one that I sent is entitled 'The truth and meaning of human sexuality'. Could I give you a copy of that now?

CHAIR—We can receive this as an exhibit. It is not part of your submission. It is an exhibit attached to your submission.

Mr O'Dowd—Can it be printed as well?

CHAIR—It can be, but I would prefer to have a look at it before we authorise it.

Mr O'Dowd—It is very profound and should be printed.

CHAIR—With all due respect, we will make those decisions about what should be printed. We have received your first submission. It has been published. It is No. 63 in the submissions that we have received. We have now been talking about a couple of attachments to that. There is no problem in receiving 'The Truth and meaning of human sexuality', dated 8 December 1995, as an exhibit attachment to your submission.

The other thing you presented to the committee this morning is a supplementary submission dated 1 October 1996. I have had a quick look through this supplementary submission and the committee agrees that it be received and published as a supplementary submission. I now invite you to make an opening statement, at the conclusion of which I will invite members of the committee to address questions to you.

Mr O'Dowd—The Christian community and other people of integrity realise the actual profound and lasting bonds which join us to those generations who have gone before us. They gave us as our inheritance an unsullied culture which was ours to cherish and to keep. Many thousands of Australian men and women fought and lost their lives

fighting for our land and culture and the lifestyle they knew and loved. It is our duty to help safeguard and protect our Christian culture from the subversion from perversion from within.

Western society was founded on freedom, which is liberty subject to individual moral responsibility. Liberty without morality leads to anarchy. Our Australian legislators are well into the process of rejecting our heritage of evolved values and institutions through subordinating to new secular philosophies and theories.

There is an emphasis on rights to the near exclusion of duties and responsibilities in modern society. There is a grave danger in the push towards legislative recognition of 'wrong-headed' rights in the response to the demands of politically influential pressure groups. There is no end to the so-called rights which can be demanded. A right conscious society in effect recognises a few rights only. It neglects many others. The rights that are recognised are those which are demanded by the powerful, the aggressive and the nasty—moral perverts.

It is ironic that the judiciary has constitutionally entrenched free speech rights while legislators of each political persuasion have relentlessly attempted to restrict those rights. There seems to be a legislative trend to stifle the opinions of Australians who speak about controversial issues. Racial and homosexual anti-vilification legislation is a prominent example of that trend. The question must be asked whether the adoption of such legislation is the appropriate response to vilificatory speech in a free, democratic and mature society.

CHAIR—Mr O'Dowd, I might just interrupt for a moment. We have just made a decision to publish the supplementary submission that you have given us. It is now actually on the record. By reading from the document, we are duplicating what has already been done. Rather than reading each and every word of the supplementary submission, perhaps you could briefly speak to the points that you want to highlight from this supplementary submission and from your earlier submission rather than duplicating the process that we have already got in train.

Mr O'Dowd—I will bring your attention to offences of serious vilification. All that must be established beyond the public act of threatening is the likelihood that hatred would be incited. This overlooks the chance that the incitement of hatred may be an indirect and completely unintended effect of the act and merely the product of a totally unreasonable response on that part of the audience. The phrase 'inciting racial or homosexual hatred' can thus be a very elastic motion indeed.

I was going to refer the committee to the effect of paedophilia. It is pertinent for two reasons. First, because it is more closely associated with homosexuality. Although the majority of homosexuals are not paedophiles, there is statistical evidence to show that between 25 and 40 per cent of all recorded child molestation was homosexual.

The other thing I want to refer to is educational aspects. For some years now educational authorities in Australia have been confusing the children in our schools with explicit sex and documentation by teaching the children that anal and vaginal sex and all practices are said to be safe as long as they use a condom. Teachers must not be seen to discriminate in favour of normal male and female sexuality. This is how the girls and boys in our schools are confused as to where sexuality can be put at risk.

A study by George Reckers states, 'We may tentatively conclude that the main source for gender and sexual deviance is found in social learning and psychological development variables.' This is most important: sex education and all relevant material must be removed from our schools. This would not result in any danger of any increase in the AIDS/HIV diseases. Our legislators have been completely irresponsible. They have allowed the children to be taught homosexuality in line with the homosexual agenda, 'We shall seduce them, your sons, in your schools.' The only teaching which should be allowed is instruction to teachers as outlined in 'The truth and meaning of human sexuality', the five-page article forwarded with our original submission. And, looking at the discrimination bill, the last comment here was, 'All males who insist on remaining stupidly heterosexual will be tried in homosexual courts of justice.' Is it not likely that Senator Spindler's Sexuality Discrimination Bill will produce such a homosexual court?

CHAIR—Thank you, Mr O'Dowd.

Mr O'Dowd—And just one comment—that document that you referred to, the last document at our submission, can be obtained from the US, I believe. It is a matter of fact, it was published, it is on the congressional record.

Senator BOLKUS—Sure, but it has been denied as being the aspirations of the gay movement, though.

Mr Howard—Is that not pure speculation? It is a fact that those words were written.

Senator BOLKUS—Do you know what satire is?

Mr Howard—Yes.

Senator BOLKUS—How do you think that homosexual court of justice will come about? Through this legislation?

Mr O'Dowd—When this bill becomes law, the bill also gives this court that much power that it sets it up, as I have said here, as an alternative court to the High Court of Australia.

Senator BOLKUS—So you say the Federal Court will become a homosexual

court.

Mr O’Dowd—No, I did not say that. But the Human Rights and Equal Opportunity Commission, if they bring this bill in or have the power to give untold rights to homosexuals—they only have to make a complaint and the onus of proving innocence on the part of the respondent is almost—

Senator BOLKUS—You said that from this bill we will finish up with a homosexual court of justice. How will that come about?

Mr O’Dowd—Because they will get that many rights to homosexuals and transgenders—I have gone through this quite well, if you have time to read it.

Senator BOLKUS—So you are not saying that the court will consist of total homosexuals?

Mr O’Dowd—It is damages that they will be allowed to decide who has offended under the act and who is innocent under the act is unbelievable, because there is no right of evidence and therefore a respondent who cannot be given legal representation is not entitled to it.

Senator BOLKUS—Can you tell me whether you have spent any time with a friend or a relative who has cancer, a mental illness, pneumonia or a bowel infection?

Mr O’Dowd—What has that got to do with—

Senator BOLKUS—No, I am just asking whether you have actually suffered or shared the agony of someone in those circumstances?

Mr O’Dowd—I have not, actually.

Senator BOLKUS—You have not. It would be excruciatingly painful for anyone. Mr Howard, you might like to say if you have spent any time with a friend or a relative who has had those sorts of death leading problems?

Mr Howard—As a young man I have been associated with relatives like that, yes.

Senator BOLKUS—It is a painful experience to go through.

Mr O’Dowd—Could I just comment now?

Senator BOLKUS—Sure, yes.

Mr O’Dowd—It is stated that young men who enter into homosexuality will

possibly be HIV positive—

Senator BOLKUS—No, I am asking if—

Mr O’Dowd—Can I just get this point out.

Senator BOLKUS—No, I am asking a question and I would like the answer, and the answer is that it is an excruciating experience. In fact, I am stunned at the assertion that you make on page 4, ‘Imagine being with a person who had one or several of the following medical illnesses caused through his behaviour.’ If they did have hepatitis or oesophageal cancer or so on, should we distinguish against them because they may be homosexual or bisexual?

Mr O’Dowd—The problem is that this particular lifestyle leads many young people to possibly attract all these diseases, and we should be trying to point out to them that this lifestyle has to be changed. Most of these people are dying by the age of 30.

Senator BOLKUS—Let us put aside whether it does or does not for the moment. I do not agree with you, but what you are advocating here is a different degree of compassion for someone who might be close to death or who might be suffering.

Mr O’Dowd—There are hospitals and respite centres, aren’t there? Do they have to be allowed to use their so-called right and be taken into homes where there is no such illness?

Senator BOLKUS—Don’t you think families have responsibility to share with them?

Mr O’Dowd—No, not other families I don’t; their own families I do. Why should other families have to do it?

Senator BOLKUS—We are talking about people here, live individuals.

Mr O’Dowd—There are hospitals, other centres and particular nursing homes. Why should they go to people who have led a moral lifestyle and carry these diseases into somebody else’s home? Would you take them into your home?

Senator BOLKUS—I have, and I will, and I might be more of a Christian than you are on the basis of that.

Mr O’Dowd—You might be too.

Senator BOLKUS—You have circulated an article with your submission by Bryan Ellison and Dr Peter Duesberg claiming that AIDS was a scam. Who is this doctor?

Mr O'Dowd—It is on page 12.

Senator BOLKUS—It does not tell us much about him.

Mr O'Dowd—Yes, it does. He is a professor at the University of California.

Senator BOLKUS—Where does it say that?

Mr O'Dowd—In the last two pages.

Senator BOLKUS—It says California.

Mr O'Dowd—There is his book.

Senator BOLKUS—Right. Do you know much about these two people?

Mr O'Dowd—Yes. Buy his book—it has been shown where you can get it—and you will know everything about him. He is a professor of molecular biology at the University of California.

Senator BOLKUS—You believe that AIDS was actually a conspiracy brought together by the centres of disease control in the USA.

Mr O'Dowd—I do believe it is being controlled by them.

Senator BOLKUS—They are controlling it.

Mr O'Dowd—Well, I do believe they are furthering the aim, they are trying to find that it is a virus and apparently it is more behaviour than a virus.

Senator BOLKUS—What they say in the article is that basically it was a concept propagated by the CDC—

Mr O'Dowd—That is not my wording.

Senator BOLKUS—No, but I am asking if you agree whether there is a world-wide conspiracy in the interests of the CDC.

Mr O'Dowd—I have no doubt about it, when you consider that \$23 billion has been spent and they have not found a cure.

Mr Howard—The research of Dr Marshall from Western Australia into stomach ulcers—this is something from which I have personally suffered—was not received by the scientific establishment until he went to the extent of infecting himself with the bacterium

concerned and then took the suite of antibiotics which he had already tested and found worked, and he cured himself of this. Then his research was accepted. This was particularly in the United States in all the medical journals. Even in Australia now it is the usual to treat with a suite of drugs if the bacterium has been proved to be present. So I would like to suggest to you that the analogy is reasonably close, that a scientific establishment will try to cover itself. These two doctors, to the best of my knowledge, are very well regarded for their achievements, and it is simply a matter of their experiments—

Senator BOLKUS—These two doctors here—Ellison and Duesberg; I would not mind some accreditation to that effect, actually. You say they are well respected. Can you provide to the committee documentation of the degree of respect they do have?

Mr Howard—Certainly.

Senator BOLKUS—Just one last question. You said in your introduction that 25 to 40 per cent of child molestation involves homosexuals. Where is that figure from?

Mr O'Dowd—Which page is that again now?

Senator BOLKUS—No, that is something you said to us verbally.

Mr O'Dowd—It is in here, on page 3. *Family Update*, July-August 1996.

Mr Howard—The Australian Family Association.

Senator BOLKUS—So we can find it in that document, can we?

Mr Howard—Yes.

Senator BOLKUS—*Family Update*, the Australian Family Association. Do you know where they got their figures from?

Mr O'Dowd—I have a book here, if it is any help to you, where it says that in 1993 three researchers presented a paper to the Eastern Psychological Association USA, after analysing the AIDS death of nearly 7,000 homosexuals and heterosexuals. They found that the gay male lifespan is significantly shorter than that of married men in general by more than three decades. AIDS further shortened the life span of homosexual men by more than seven per cent. That is from this book here, *Homosexuality and the Politics of Truth*, which I would recommend. Perhaps you could get it, because it is a 1996 book and it is written by a psychiatrist, Dr Jeffrey Satinover—

Senator BOLKUS—Where did you find him? The United States?

Mr O'Dowd—The United States. That is a marvellous book and most of these

statistics and the politics of homosexuality and their reasoning can be found in the book. I would recommend it to you.

Senator BOLKUS—So those statistics you say come from there.

Mr O’Dowd—They are also to be found in here. I have just quoted from it.

Senator BOLKUS—Would it surprise you to know that work done within Australia indicates that there is no such correlation—that the figures are nowhere near that?

Mr O’Dowd—Who got the figures?

Senator BOLKUS—The Institute of Criminology.

Mr O’Dowd—The *Newcastle Post* of 16 November 1994 printed a letter from a New South Wales medico which stated:

Out of a sample of 4,340 adults who had been sexually molested in childhood, one-third reported having been homosexually molested.

Senator BOLKUS—That is from a doctor. We do not know who he is?

Mr O’Dowd—Yes, I do actually, a Dr Arnold Jaego. When this was reported in the paper, he was up on an anti-discrimination charge and he had to defend himself. He defended himself quite capably because all his statistics had been previously reported. That is factual.

Senator BOLKUS—I think we will check those out.

Mr O’Dowd—That is on page 3 of my address.

Senator BOLKUS—But it does not bother you that there might be empirical evidence to the contrary?

Mr O’Dowd—It all depends on who has given the other evidence. But I think this one is a medico and would not have put his name to a document like that unless he had irrefutable figures, I would say.

Senator BOLKUS—So, if we had a bundle of medicos who put their names to contrary evidence, why wouldn’t you—

Mr O’Dowd—I do not know. Who is going to decide, which body of people decide? It would have to be another group of medicos—

Senator BOLKUS—On what grounds would you accept that and maybe reject 30 or 40 others who had a contrary point of view?

Mr O’Dowd—I know this gentleman; he is a member of our association. It is our newsletter.

Senator BOLKUS—I suppose that is one reason.

Mr O’Dowd—When I found that he had given it. I can show you his name on our list, if you wish.

Senator BOLKUS—Sure.

Mr O’Dowd—You would like to see it?

Senator BOLKUS—No, I think you should keep the list to yourself, actually. Thank you.

Senator COONAN—Mr O’Dowd, Mr Howard, what we are dealing with here, I think, leaving aside the fact that we know, for instance, that there are a lot of other human beings in our society who, because of their sexual orientation or because of their preferences or whatever it is, are being seriously discriminated against in society. By ‘seriously’ I mean they are having trouble finding somewhere to live; their physical integrity is threatened because they are bashed up or abused; they do not have access to most basic facilities that people who do not have that sort of orientation take for granted. What this bill is really seeking to do is to provide some very limited protections to guarantee, or at least to assist, other human beings get absolutely basic facilities.

Without attributing blame or statistics or looking at AIDS problems or some of the more awful problems we face in society, what do you suggest we do as a society, as a compassionate and humane society, to be able to give other human beings somewhere to live and access to services? These are the sorts of things, I think, we are dealing with here. We are not blurring relationships of marriage and we are not blurring the distinction between marital and non-marital relationships and some of the things that Christian people hold very dear. What we are really looking at is just basic and very minimum protections.

Mr O’Dowd—The aim of the bill, and I have given a critique of this bill here—I have said this bill must be rejected totally.

Senator COONAN—I know that is what you have said, but I am looking at, if you rejected it, what do you do about the fact that gay people get bashed up and their physical safety is at risk as they walk around the streets, they are attacked in their homes, they often cannot find somewhere to live? We do not go out and shoot people like that, we do something to assist.

Mr O’Dowd—That is up to yourselves to do. You have the Commonwealth government behind you. You can provide them with accommodation. You can build buildings for them or whatever you wish to do; but you do not have to impose in the homes of private people. What is going to happen if these homosexual transgender people are given a private room in a home? Are they then allowed to bring their—what will I say—class members into that home to their bedrooms and behave as they wish as a matter of rights? Is that what you—

Senator COONAN—Let me just understand this. Is what you are objecting to the accommodation and rental provisions in the bill? Is that what you are objecting to, or is it much more fundamental than that?

Mr O’Dowd—I am complaining against everything in the bill and I have given a complete critique of it here.

Senator COONAN—What do you do about the fact of somebody being threatened or beaten up and abused and rung up and vilified?

Mr Howard—May I point out that all people in our society, whether they are heterosexual or homosexual, which is a sexual preference, are under the law and the United Nations protection of human rights—all protected against any of those things that you mentioned.

Senator COONAN—But you have to have domestic laws to be able to do anything about it. That is the whole point.

Mr Howard—The Australian laws already protect everyone against any of those conditions that you mention. Don’t they?

Senator COONAN—I do not think they do.

Mr Howard—They certainly do in connection that all homosexuals have the same rights to employment, housing and public accommodation as anyone else. There is no inherent way of identifying a homosexual as against anyone else. The problems arise because homosexual activists are challenging society by wanting both unrestricted sexual freedom and a right to teach their lifestyle to convince all, even children, that homosexual activity is as acceptable as normal marriage and family life. That is the key. But everyone is protected by these rights in our society and we support that fully—that they are protected against violence and vilification as such.

Senator COONAN—So would you, for instance, consider it appropriate that the law allows people who are homosexual to bring an action if they are unfairly dismissed on that ground?

Mr Howard—Well, certainly, if they are unfairly dismissed on that ground, and the law exists at present to do that.

Senator COONAN—Okay. So that is employment. But what I am really trying to understand is what your objections are here. So you do not object to someone who is discriminated against on the grounds that they are homosexual having some rights if they are unfairly dismissed?

Mr Howard—They have all the rights of anyone else. What we object to is privileges.

Senator COONAN—Right. So where is the privilege, then, in this bill? If you say that otherwise these rights are provided under the general law, where are the additional privileges?

Mr Howard—The privileges would arise when someone is put above other people in the community. That would be unjust discrimination and a limitation on rights. For instance, if we have a blind person who has a disorder, it is certainly not unjust for that blind person not to have a driving licence, is it? Similarly, if you have a homosexual activist who is a teacher in a school and trying to promote this as a role model—

Senator COONAN—Yes, but there is nothing in the bill about—

Mr Howard—That would be affecting the rights of parents, wouldn't it, to have your children not subjected to that.

Senator COONAN—There are always competing rights and balances that have to be struck—

Mr Howard—Precisely.

Senator COONAN—What I am really trying to understand about this bill, which we as a committee have to seriously regard and have to take into account all the views expressed here, is what are your objections to the minimum rights which simply elevate people who are otherwise disadvantaged to the same position, hopefully, as everybody else who needs a house or who needs to be educated or needs a job?

Mr Howard—There are no objections to the minimum rights possessed by everyone else—

Senator COONAN—Well, that is fine—

Mr Howard—The objections are to the privileges.

Senator COONAN—I do not think this bill does any more, and I am just trying to find out where it does, in your view, elevate any of the people to whom this is directed above anyone else.

Mr O’Dowd—It does, quite severely.

Senator COONAN—Well, this is what I am trying to identify.

Mr O’Dowd—In the case of representative complaint or class complaint, under this bill the court that will conduct it, Human Rights and Equal Opportunities Commission, have the right to call in somebody else as they wish to be a member of that case or complaint and let that complainant be released and take somebody else in his place. Now, what on earth would you bring in a class and a representative complaint for, because the amount of damages that can be given against a respondent in such a claim is unbelievable, a class or representative complaint.

Senator COONAN—Yes. I am just trying to let fall to the bottom what your real objections are. So it is the class action component of the bill that bothers you most significantly, is it?

Mr O’Dowd—Class and representative complaint, and also you have given religious institutions the right of exemption under the act so that they can discriminate against employing people they think are unsuitable. But then I think the UN declaration on elimination of all forms of intolerance and discrimination wipes out that exemption completely.

Senator COONAN—It does not if it is not actually in our domestic law, and so this legislation will take precedence—

Mr O’Dowd—I believe it was gazetted on 24 February 1993.

Senator COONAN—It is still not part of our domestic law. This bill, if passed, will take precedence.

Mr O’Dowd—But this bill also, on application of the act, says that the application of this act gives effective external affairs powers and all these international covenants shown on page 2 of my critique there. That is going to bring these effectively into law, this bill, it will be all these different covenants into law.

Senator COONAN—It is not going to inasmuch as the exemptions under this bill will take precedence, because that is going to be our domestic law, right? So you are not going to find religious institutions being excepted here and being subject to complaint in some other sphere; it just will not happen.

Mr O’Dowd—Well, why won’t it? It has already been gazetted. Once it has been gazetted, doesn’t it come under law?

Senator COONAN—No, it still has to be enacted into some sort of domestic legislation.

Mr O’Dowd—Well, all these others have been enacted, I believe.

Senator COONAN—No, I do not think so.

Mr O’Dowd—And it is only a matter of having this one enacted and that wipes out the exemptions under this act.

Senator COONAN—No. Can you assume, for the purposes of this exchange that we are having, that the exemptions, if this bill goes ahead, will prevail: are there some other areas of the bill where you have specific objection? I am just trying to find out the gamut of it.

Mr O’Dowd—These exemptions to the employment of people in religious institutions do not apply to state institutions, and any state body or other than religious institution cannot discriminate. It is just commonsense they will not want to employ some of these people of, what shall I say, alternative lifestyles.

Senator COONAN—And is that it? I really just want the gamut of your objection.

Mr O’Dowd—I have got it all down there in this critique. So I think you will be able to read it in the whole submission that I have written.

Senator COONAN—So it really comes down, so it would seem, apart from concerns about what international obligations we may import into domestic law, that your main concern about it is that it provides for a class action.

Mr O’Dowd—And also the amounts of penalty that the court can impose are not written, just like that Brandy case, as you mentioned before and the huge, what will I say, sentence that he was imposed with, or the other case just recently, a couple of weeks ago, where one man was fined \$50,000 for vilifying a next-door homosexual. Those charges were unbelievable, and they are oppressive, and I do not think even the High Court would have found that in most cases it was the appropriate penalty.

Senator COONAN—So, in other words, what you are really saying is that there should not be any discretion in relation to the seriousness or otherwise of a complaint when awarding damages, and that there should be specified limits?

Mr O’Dowd—There should be specified limits. There should not be any such

thing as a representative or a class complaint. The court should not have the right to interfere in any other court, just to make a discriminatory complaint themselves. There is practically every part of the act that I can find, I find unacceptable, and I have written that in my critique here, and I think it should be rejected.

Senator COONAN—But you do not as a matter of principle, and I think this is the fundamental point upon which we can probably agree, you do not as a matter of principle think that people who are homosexual or transgenders or bisexual, or whatever their sexual orientation, should be treated less favourably than anyone else. You have said they should not be privileged, but they should not be treated less favourably.

Mr O’Dowd—According to some statistics that have been given, it is proved that many people—the more highly educated people—who favour this lifestyle are amongst the higher income earners. Perhaps they are not being treated that badly at all. You are using the soft option to try to bring these matters into reality, as far as I can see.

Senator COONAN—What I am really trying to establish though is the point upon which we can agree, in terms of what you say to this committee. You don’t say, do you, that people whom I have identified, in terms of basic facilities or basic access to everything that people enjoy in our community, should be treated less favourably? Is that as high as we can put it?

Mr O’Dowd—As long as private accommodation was removed from the focus of this bill, where people have the right to discriminate whom they will bring into their homes—I can’t give an open statement on what you are seeking.

Senator COONAN—I am just trying to close the statement in a sense. I am just trying to look at the parameters. So, with the exception of accommodation then, you would say that, otherwise, people of the kind that I have described ought not to be treated any less well than everyone else in the community? I must say it seems a serious thing to say otherwise, and I just can’t understand the reasons why you would want to treat other human beings less favourably in terms of access to public and other facilities.

Mr Howard—I think it could be helpful if we referred again to the United Nations Declaration on Human Rights—that all human beings be treated equally.

Senator COONAN—Yes.

Mr Howard—We then have to look at what designates a human being. What is intrinsic to human nature? Gender is certainly intrinsic to human nature. We are created male and female, and for a very specific purpose—to propagate the race. Race is not intrinsic to being a human being. Colour is not. Sexual orientation is not intrinsic to being a human being; it is purely a choice.

Senator COONAN—You can choose what colour you are?

Mr Howard—It is a question of the behaviour of the individual. If a heterosexual behaves against the rights of someone else, then they need to come under the law. Similarly with the homosexual.

Senator COONAN—But, Mr Howard, we have heard evidence from credible people before this committee that people can no more choose whether they are homosexual or not than they can choose whether they are black or white, or whether they are Asian. And if that is correct, what I am putting to you is that there are basic human things that people need—they are human beings. What I am really trying to identify is in relation to this act. All it does is provide some very basic things. You might object to certain parts of it; you might object to how it is framed. But the concept of treating people with dignity, whatever colour they are or whatever their sexual orientation, seems to me to be something that we ought to be able to agree about.

Mr Howard—Senator, I would put it to you that there are two basic reasons for understanding that this behaviour may be compulsive, like someone who decides to gamble and gets hooked on gambling. I would put that to you; that that is part of the compulsive behaviour.

Secondly, I would say that Dr Nicolusi in particular, and many others, have treated hundreds of homosexuals; that is, homosexuals who understand that what they are doing is a disorder and they no longer—they have married women—are homosexual practising people. Thirdly, I would put it to you that the three studies that I am aware of, which you have probably been made aware of, are seriously deficient in scope and in one particular case the actual results have been challenged as being a fabrication.

Mr O'Dowd—Senator, I would just like to make two statements about these people who cannot help it. There was the discovery of evidence by Dean Hamer, a Washington molecular biologist, of the so-called gay gene.

Senator COONAN—We are not going to worry about this particular aspect but I had thought that there was some real common ground there with the acceptance that no-one should be treated any differently. We at least had a starting point and I was hoping that what we could have done was identify what the objections were on this particular bill but we could, quite literally I suppose, be here all day. It did concern me on what basis you thought people should be treated differently and that was really the point of the exploration. I have sent you off on a tangent and I am sorry about that. Perhaps I should withdraw the question that invited it.

Mr O'Dowd—I would just like to make a statement just so that it is on the record, Senator. The so-called discovery of a gay gene is yet another example of uncritical reporting by most of the media. Dr Hamer's study is under investigation by the Federal

Office for Research and Integrity for alleged fraud because he may have selectively reported his data. The other comment is that if homosexuality was simply caused by a greater than average but still normal degree of opposing sex influence of the prenatal environment, we would expect male homosexuals, for example, to have female brain structures. Many of the studies to date on the biology of homosexuality have looked for such a feminisation of the homosexual brain but nothing convincing has been found. Indeed LeVay and other researchers have pointed out that a certain nucleus in the brain, the sexually dimorphic nucleus, or SDN, takes two distinct forms in men and women. This nucleus is found typically in masculine form in male homosexuals.

Senator WOODLEY—I am interested, Mr O’Dowd, in your submission. I have not read the submission you tabled today, just the original one. I am particularly interested in your theology which seems to be a very strong part of the submission. What I think I hear you saying is that in fact there is an intrinsic moral evil associated with being a homosexual.

Mr O’Dowd—That is correct. I pointed out here—

Senator WOODLEY—So you do not make a differentiation between an orientation and a behaviour?

Mr O’Dowd—The wording in that actually came from the Vatican, from Rome. I would not like to override it. There are such things as homosexuals who are not practising homosexuals and who realise that perhaps it might be an incorrect lifestyle, but the practice actually is quite evil.

Senator WOODLEY—What I am trying to get at is it seems to me that your document suggests that there is no such thing as a homosexual person distinct from the practice—and I am not sure which practice. I presume you are referring to sodomy.

Mr O’Dowd—Is that not the normal practice of a homosexual?

Senator WOODLEY—What about lesbians?

Mr O’Dowd—I am not a lesbian, I do not know what they get up to. But anyone who practices anal sex has got a problem.

Senator WOODLEY—So you are not talking about other homosexual practices apart from anal sex?

Mr O’Dowd—I am quite aware of all the other homosexual practices. That is why I brought out in my submission that if they are allowed into private accommodation and they allowed to bring their friends, under some so-called rights, into their bedroom are they then allowed to carry on the practice that they carry on in their bath houses? I cannot

be more explicit than that.

Senator WOODLEY—The problem I have, of course, with your biblical references is that all of those, and there are some you missed out, from all the theology I have ever read, refer to sodomy—

Mr O’Dowd—Yes.

Senator WOODLEY—They do not refer to homosexual orientation. I think there is a clear distinction between the two.

Mr O’Dowd—I think you might find it there. You are making out that most homosexuals are chaste then, is that the idea?

Senator WOODLEY—No, I am not. I am trying to establish what you are saying in your submission. It seems that your submission is suggesting that a person’s orientation is a moral evil. I suggest to you that theologically, philosophically and every other way that is untenable, whether the Pope said it or not.

Mr Howard—What the church teaches is that homosexual orientation is a disorder and the document on pastoral care of homosexual persons, which was put out by the congregation for the doctrine of the faith, makes this very clear. The immorality then comes in the practice of homosexual actions, whether by male or female. To get back to the biblical injunction, we have been created male and female. The purpose of that is for collaboration—a unity in marriage to propagate the race. So it is an immoral action if females then engage in sexual acts with each other also.

Senator WOODLEY—It seems to me that your idea of intrinsic moral evil is suggesting that there is no distinction between the behaviour and what I think I would understand to be a particular sexual orientation. The evidence for me is overwhelming that for all of the people I have ever spoken to who are homosexual they have no choice about that—and if you have no choice you have no moral culpability.

Mr O’Dowd—Two matters I just brought up with Senator Coonan are that there is no gay gene and a male homosexual has a typically male brain. If they have a typical male brain it more or less points out that most homosexuals are actually perverted to that lifestyle perhaps by an adult or some other practice early in their life.

Senator WOODLEY—All the evidence gives the lie to that.

Mr Howard—It might make no difference to you the fact that Dr Nicolusi and many other doctors have counselled homosexual people, particularly males—and they have changed because they wish to.

Senator WOODLEY—It is very concerning to me that your theology does not stand up.

Mr O’Dowd—I would like to make this statement to you very strongly: the actual outcome of the Spindler sexuality discrimination bill if enacted is to further support and expand the practice of a form of necromania where mindless men use the anus, the human dead waste excreta canal, as a depository for live human reproductive semen. The anus is not a sexual organ and no biological medical or scientific proclamation can make it so. Seasoned homosexuals use the anus only after ingesting many dangerous chemicals and drugs.

Senator BOLKUS—I am tempted to ask whether it would make any difference if they promise to restrain themselves to oral sex but I will not embark on that course of action. Can I put to you something which you might like to comment on. We have had a submission from the Australian Catholics Bishops Conference and the two paragraphs that went into it say:

The church has upheld and taught consistently that the inherent and inviolable dignity of every human being, without exception, must be the foundation for any examination of individual and communal rights and responsibilities.

They then go on to say:

The Australian Catholic Bishops’ Conference supports attempts by parliaments to proscribe conduct which unjustly discriminates or vilifies members of the Australian community on whatever basis.

Mr O’Dowd—What was the heading of that document and what does it apply to?

Senator BOLKUS—It is the submission by the Australian Catholic Bishops Conference. They raised a few concerns about the detail of the bill but that is the in principle statement at the top of it.

Mr O’Dowd—Specifically to the Spindler bill?

Senator BOLKUS—Yes.

Mr O’Dowd—Is that all they said about it?

Senator BOLKUS—No. I said they raised some concerns about the details of it but that is their starting principle.

Mr Howard—Could you repeat the last sentence?

Senator BOLKUS—It says:

The Australian Catholic Bishops' Conference supports attempts by parliaments to proscribe conduct which unjustly discriminates or vilifies members of the Australian community on whatever basis.

Mr O'Dowd—Which paragraph is that again?

Senator BOLKUS—It is paragraph No. 2 at the top.

Mr Howard—I think that wording is very correct and very exact when it says:

. . . unjustly discriminates or vilifies members of the Australian community. . .

In other words, they support fully the UN's declaration on human rights that human beings have equal rights.

Senator BOLKUS—I give up. Thank you, Mr Chairman.

CHAIR—I have two questions. Catholics, for centuries, have been a group of people in the world society who have been discriminated against and vilified in different parts of the world. Yet we find that you, as Catholic parents, are saying that a group of people who may be in Australia are being discriminated against and vilified are not deserving of any rights. How do you balance the two?

Mr O'Dowd—The rights that they can claim under this Spindler act almost totally—it would be the complete aim in having this bill passed—because they can get all that policy affected underneath it.

Mr Howard—I think that that would be a complete and utter misrepresentation of the church's position and our position. I would repeat again, that under the UN declaration which we fully support, all human beings have equal rights. What we are objecting to is privileges given on the basis of a sexual preference or orientation which interfere with the rights of others. Why should those privileges exist? All homosexual people can have the protection and do have the protection of Australian law against vilification, against violence and against all of those things like any other citizen. There is no question of that.

CHAIR—The only reason the Catholics were discriminated against in the past was because they were Catholics.

Mr Howard—What does that prove? It certainly does not shake our position.

CHAIR—I have a question on page 4 of your supplementary submission where you say:

Sex education and all relative material must be removed from our schools.

You are suggesting that the pontifical council statement be inserted in lieu. Am I under-

standing that this document which has come out of Rome on 8 December 1995 be used as sex educational material?

Mr O'Dowd—Yes, that is *The Truth and meaning of human sexuality*. If only teachers realised just what a responsibility they had. They think they can teach anything that is recommended and use any possible resource they are given. They are demoralising the children in the schools. They are teaching them unsafe practices. They have no morals training. There is no morals training in any private school these days.

CHAIR—You have actually gone further than that. Your statement on page 4 is saying:

Sex Education and all the relative material must be removed from our schools.

You have gone further.

Mr O'Dowd—If you had seen some of the explicit material that I have seen that is given to schoolchildren I would be—

CHAIR—Mr O'Dowd, you say that you do not want any sex educational material at all in any Australian school. Is that your view?

Mr O'Dowd—Only for the senior classes who might be leaving school.

CHAIR—You have not qualified that here.

Mr Howard—Senator, as an addendum to that if I may say so, what we are interested in is the fact that teachers are in loco parentis. Therefore, they need to act in accordance with the parents' rights and requirements on this matter. If the parents are Catholics then the parents follow the teaching of the church. The teaching of the church is that sexual morality is what they teach and to each individual child, according to their development, the parents will indicate more intimate matters. What is required to be protected is modesty and chastity. The physical aspects which are taught at present, very often in most Catholic schools, undermine this enormously by whatever name, family life education or whatever else. That is the important thing and that is what that document points out.

Senator COONAN—I want to ask you a question about same sex couples which is, as you know, provided in the bill at section 107 and I want to know whether you agreed with this statement. It says:

In this regard, cl. 107 of Senator Spindler's Bill concerning same sex couples is notable for its attempt to confer rights, albeit limited, on same sex couples. To the degree that it can provide protection from unjust discrimination, and that it provides protections against discrimination similar to those accorded to persons living in a de facto relationship, it is hardly objectionable.

Do you agree with that statement?

Mr O'Dowd—I do not agree that any special rights should be given to same sex couples because most same sex couples do not live together for most of their lives. The number of partners that homosexuals have is unbelievable. People who go along and think that same sex couples are going to live together like a heterosexual couple for most of their lives had better have another look at all the available statistics.

Senator COONAN—I wanted to ask you that because that was what the Australian Catholic Bishops Conference submission said.

Mr O'Dowd—I could not agree with it.

Senator COONAN—You do not agree with it. Thank you.

Mr O'Dowd—There should be no special rights for same sex couples who are living in a type of sexual relationship.

Senator COONAN—I just wanted to know whether you agreed or did not agree with the bishops.

CHAIR—Mr Howard and Mr O'Dowd, thank you very much for your attendance at the committee's hearing this afternoon.

Luncheon adjournment

[2.05 p.m.]

REECE, Dr Albert Stuart, 39 Gladstone Road, Highgate Hill, Queensland 4101

CHAIR—Welcome. In what capacity are you appearing before the committee?

Dr Reece—I am private citizen and a general practitioner in a gay area in inner city Brisbane.

CHAIR—Thank you. The committee has received and published your submission, which we have numbered 143. I note also that you have provided the committee with a supplementary submission. Because of the size of it, rather than trying to scan through it we will hold it for now and, if it is appropriate, we will publish it at a later time. There are also some supplementary notes and, again, we will hold these until a later time. I now invite you to make an opening statement, at the conclusion of which I will invite members of the committee to address questions to you.

Dr Reece—Thank you. Excuse me, Mr Chairman, would you mind if I stand to make my presentation, because there is a bit to do?

CHAIR—Please do.

Senator WOODLEY—Are we going to have time to ask questions?

Dr Reece—I will do my very best to ensure that you do.

CHAIR—I hope so.

Senator WOODLEY—It is pointless, otherwise.

Dr Reece—Thank you. I was sure that one of the key questions you would have, in view of my fairly numeric initial presentation, would be: where did the data come from and how did we arrive at that data? I want to address that. You will find a lot of these issues expanded in the maroon volume that I have given you and my major submission. But there are a few things I want to raise from the supplementary notes, in the orange folder, before we start.

The first sheet says some very interesting things. This is by John Kaldor, the leader of the NCHECR in Sydney, saying that there are only 11,000 cases of HIV in Australia, rather than the 20,000 we are routinely told, which immediately opens the debate to what is really going on here. The second sheet is a debate by someone who has worked through the whole homosexual thing. A lot of psychoanalysts see this as a sexual addiction. It is quite a good commentary, as is the third sheet.

The fourth sheet is a commentary from a world travel guide for homosexuals, mentioning the five houses in Sydney where you can pick up boys for sexual purposes. The fifth sheet is on how to organise an orgy, out of last week's homosexual newspaper, *Sydney Star Observer*. There are 520 words in that essay and it mentions the word 'safe' twice and 'condom' once, so it is obviously not very safe. Then there is a sheet about transsexuality mentioning some of the major problems there, which we will come to. And the last sheet I will deal with at the end.

Slides were then shown—

Dr Reece—Obviously, when someone presents at a seminar such as this, the leading charge is going to be homophobia. I want to get right away from that, and I want to use mainly the words of the homosexual community themselves so there can be no discussion about that. And I want to take a numeric or empirical approach to this—a measured, measured way, an ancient judgment on Babylon 600 BC. Although there will be about eight studies I quote, most of which are representative of the international literature in this area, the two major data sources are the SMASH study, which comes from St Vincent's Hospital in Sydney, the Australian Society of HIV Medicine and NCHECR, and from the ANU social science data archives, the national social science survey and international social science program.

The presuppositions on which this bill is established say that people are born that way, gays are victims and that gay is good. They are the underlying suppositions. Let us look at the frequency, because obviously this has a political connotation. It depends what you mean by the word homosexual. If you mean someone who has had any adult homosexual behaviour—and this is in the ANU survey of 2,000 people—you will find that of six per cent who have had any homosexual exposure, exclusive adult homosexuality is only 15 out of 2,000, or 0.8 per cent; and for males and females, it is 0.6 and 0.4 per cent. Charted on a bar graph of 100 per cent, you have all these frequencies at rather less than one per cent.

Before we get into straight statistics, which is a bit boring, I just want to deal with some of the emotional stuff, because I am sure you have been hearing persecution stories for the whole of this enquiry. This data is by Gold, a leading homosexual sociological researcher in the area, who looked at the number of respondents in his survey practising unprotected anal intercourse, or unsafe sex. He got 296 out of 344, which is about 86 per cent in this group, who had practised unsafe sex at some time.

In Gold's study, half were managers or white-collar workers. Most of them knew about the high risk activity. 70 per cent had condoms in the same or the next room, but they talked about 'angry sex'. Another study by the same researcher showed 734 men or 60 per cent with casual partners for unsafe sex. The HIV positive group here believe in caveat emptor, buyer beware. They were not interested in protecting their partners. He says that, in a culture extolling individual selfishness, it is not reasonable to expect HIV

positives to be any different. We do not have a safe sex culture here, he is saying.

It is unpleasant to think that in many cases the dynamics of the gay world may, in fact, be producing depression and desperation that contribute to unsafe sex. He was talking about what generates the anger that causes unsafe anal sex. He said that real vehemence accompanies men's description of their handling of other men. The consequences can be awful if they do not fit this mould. And he talked about a young kid who felt rejected and who said, 'No-one wants to talk with me or be seen with me, let alone to have sex with me.' And that says that a lot of the stress that these people are actually experiencing really comes from their own community, rather than the general society, which is the way they normally talk.

We have heard some discussion already in the preceding presentation about whether they are born that way, or not. Suffice it to say, because I have got a lot to get through, that the three major studies—the gay brain study, the gay twin study and the genetic linkage study—have all been seriously discredited. As was mentioned before, Dean Hamer is now under investigation for leaving out part of his study group. The chromosomal staining that he mentioned really has no known biological correlate anyway, even it was proved. The gay brain study is extraordinary. There were 26 HIV positives there—and the virus is known to be seriously neurotrophic, so that the brain itself might be affected—including six in the control group. So that has been discredited on a number of grounds. There are many problems with the gay twin study, basically. They did not look at incest or child sexual abuse, which you know is a potent predictor of the whole thing. The people in the twin study were not separated out: they were brought up together, so the genetic and environmental thing is not really sorted out.

In the project from S. Kippax in a leading group at La Trobe University, there is a four-fold overrepresentation from the census population of the white-collar group. With frequency of casual sex, we see that the median number is three partners per month, which gives a total of 40 partners per year, with a few casual relationships. The number of partners—from the SMASH study, the premier homosexuality study on the homosexual group in the country—was 30 partners in a lifetime for those less than 25 years of age, and 300 for those over 25. Knowledge of the partners was none in 30 per cent of cases or brief in 50 per cent of cases; so, all together, it is absolutely huge. They are having sex in quite high numbers in sex establishments and public toilets.

What do they do? This seems to get avoided all the time. Oral sex, genital oral sex 94 per cent: that is very common. Rimming—licking of the anus and back passage—anal sex and orgies: I have already talked about orgies here in the last edition of the *Sydney Star Observer*, and I want you to note that 44 per cent of those less than 25 years old, and 47 per cent of those more than 25 years old, are actually practising orgies, and safe sex really does not have much to do with that. Unsafe anal sex with regularly escorted partners: 30 or 20 per cent; unsafe anal sex with casual partners: 80 and 60 per cent with casual serially escorted partners, in a situation where 20 per cent are HIV

positive. And HIV test status did not distinguish those who practised safe sex and those who practised unprotected sex.

With alcohol use at the level of 14 drinks per week—the national level in the general community is seven drinks per week—you find 30 per cent. If you put that down to the seven drinks per week level, you find that in fact 45 per cent of the homosexual community are drinking that amount. That has got a lot to do with the party scene: the weekend comes, they do the speeding-up drugs and the alcohol at the party, and so you have got 45 per cent who are drinking at the problem level. That has got a lot to do with occupations and a whole lot of things. On percentage use of illicit drugs, the SMASH data showed 80 per cent to 85 per cent were users in the different age groups, and injecting drug use ran at 16 per cent and nine per cent.

For the relative homosexual alcohol abuse rate, we talk about 2.4 times the general community; that is at this higher use rate of 14 drinks a week. The relative hard drug abuse rate is 42 times elevated to what it is in the general community. You can see that we are starting to generate some of the numbers that were in that original statistical submission that appear in your maroon document as tables 1 and 2.

This is the relationship style; this is very important because this, of course, is a gay de facto marriage bill. Part 6 and clause 106, I think it is, on page 7 of your notes, refer to the fact that there is no distinction now between homosexual couples and heterosexual de facto couples. Let us look at the relationship style—this is SMASH data again—43 per cent and 44 per cent have only casual partners; they are not interested in relationships. Those who have regular partners and casual partners: the SMASH data are this at these different ages. These are the monogamous ones: you can see it is about 20 per cent here and about 10 per cent there.

Relationship duration: of those who have relationships, which is an N of 534—the total N in this study is 903—50 per cent to 76 per cent were less than 12 months. Relationship duration here: less than 12 months. So out of all homosexuals, only 27 per cent have relationships which outlast the 12 month period. That has got a lot to do with adoption. Homosexual relative numbers in three to five years: multiple partners as we have heard is standard, again at a rate 24 times that in the general community.

Prostitution rate: we can see we have a prostitution rate mentioned in the SMASH data of 24 per cent. We work out from the ISSP and SSS what the general prostitution rate in the community is, and that is low. This is again SMASH data. In the last 12 months, 13 per cent have been prostituting and 25 per cent have ever been involved in prostitution rates.

This is the per cent that have had STDs; male prostitutes; poly drug abuse; alcohol; cannabis. Eighty-three per cent want to stop; 30 per cent of these male prostitutes find their work degrading and immoral; 17 per cent are HIV positive. This is actually a New

Orleans study from the States. You get a lot of associated psychopathologies—you can see them detailed there. STD prevalence is shown there.

This is talking about periods: you see the last five years and then the previous five years. That generates these data and so you can look at periods. It is quite rare, probably one in 1,000 in the general community. The HIV negative nature of the positive groups there is significantly raised, as you can see. This is very important—diseases which are contracted in the homosexual community which may be sexually transmitted: E. coli, salmonella, shigella, anabiosis and giardiasis are part of the known gay bowel system.

Hepatitis A: there is an epidemic occurring in Sydney and the Australian figures reflect the gay predominance of that disease. Campylobacter is our commonest notifiable disease. It is not linked with gay sex but it obviously is with all the anal play that goes on. And this is the horror bug, the terror bug you want to worry about: vancomycin resistant antroccoccus. There has been a lot in the medical literature lately about this germ. It is not yet reported in the gay community but it is obviously a germ that is about to break out. In fact, Professor Strong, one of our leading surgeons, described losing a patient from this as long ago as 1987.

TB and MAF disease is often resistant. Kids are very susceptible to this disease; you will find this detailed in your maroon submission. It is generated in the gay community through non-compliance, and it may be with drugs.

This is graphing unsafe sex. This is homosexually acquired gonorrhoea, which is a mark of unsafe sex in the gay community. You see it is rising dramatically. That is Victorian data; South Australian data look the same. This is HPV by DNA by PCR. What that means is: wart virus DNA test by PCR, which is the high tech study technique in HIV positive and HIV negative groups. You see here that NE HPV is very high. Significant numbers have multiple types.

CHAIR—Mr Reece, I am having difficulty in linking all of the slides together on the way through. The other difficulty I am having is that we are actually here on a specific bill that is before the parliament. You are building up a lot of background information, but in the time that is available I do not think we are going to have any opportunity to go through it. How much more of this slide material is left?

Dr Reece—A fair bit.

CHAIR—We would probably be better off concentrating on the bill rather than on your slide material. You say you have some of the material included in the maroon supplementary submission that you have given the committee.

Dr Reece—Yes.

CHAIR—I do not know what my colleagues think on the committee but I am not getting a great deal of value out of this presentation at the moment because it is happening too quickly. That is my personal view, but I do not know what my colleagues think.

Senator WOODLEY—I have written down a few questions from it that I would need to ask.

CHAIR—How much of the slide material is duplicated in the supplementary submission?

Dr Reece—Some of it, perhaps not the majority of it. A lot of specific questions can only be understood in the light of understanding that homosexuality is not a straight civil rights issue. This is a huge bill. It discusses insurance and superannuation, marriage and lifestyle. The HREOC is in there. There are huge tracts of information there and they need to be understood in context. This is not just a simple civil rights issue. There is a lot of information about homosexuality which is not understood. It is probably actually suppressed in this country today, and this is what I am trying to put before you.

Senator COONAN—I think there are probably huge health issues and things of that nature. I would be really helped if you were able to draw together the main points you want to make. I think you can assume that we will genuinely look at the material. If there is something that is not included in there that you particularly wanted to highlight in your slides, perhaps that is a way to go. But I would really appreciate you just talking to us about the main concerns you have got about the legislation, and perhaps some of the underlying assumptions.

Dr Reece—Fine, I shall do that then. The main thing that worries me about all this is that the debate is occurring in a vacuum of knowledge—in a situation of ignorance.

Senator WOODLEY—For whom?

Dr Reece—For the general community—

Senator WOODLEY—For the senators?

Dr Reece—No, I do not mean that for the senators. What I am saying is that there is a lot about the homosexual lifestyle in this country which is documented and which is known and which I do not see written up in the popular press, the political press, the medical press or the sociological press. In fact, my experience is that it is quite actively suppressed. So that is the thing, because otherwise the debates become very subjective, very relative, with people saying, ‘I’ve got my hard luck story, you’ve got your hard luck story.’ Do you know what I mean?

Senator COONAN—Yes, I can understand. What you are saying is that anecdotal

evidence is not a basis to proceed on. What we are faced with here is that we have all marched on and there are bits of legislation all over the place, and we are now looking at another piece. And to be focused about it, I think that it would be really helpful if you could say what your view about that particular legislation is and, if you do not agree with it, why—what your underlying fundamental objections to it might be. Time constraints do not allow the sort of excursus that you would liked to have embarked on this afternoon. I can see that you are frustrated about it.

Dr Reece—That is fine. It talks about insurance, for example. But the information that I am aware of concerning gay longevity—how long homosexuals live for—shows that they do not live for the equivalent longevity of the general community. That work is not exhaustive, but it is fairly unanimous that the statistical actuarial evidence is there if people need to consider it. It mentions statistical actuarial evidence in the bill, and obviously the authors of the bill were not cognisant of that information. So that is one big problem.

I do not want you to misunderstand what I am saying. I am a doctor. I work with the gay community. Therefore, I help people. I disapprove intensely of gay bashing, or even vilification for that matter.

Senator COONAN—That is a big component of this bill.

Dr Reece—Sure, that is part of it. On the other hand, we have reached a point of view where open discussion of the real difficulties, the health issues, the psychological problems—which are vast in many studies—are not aired and are not understood. They are almost suppressed, for want of a better word, or censored.

Senator BOLKUS—How are they suppressed? I must admit that, from my perspective, I get sick of people making accusations of censorship and suppression, but there is debate going on all the time.

Dr Reece—The suppression occurs in the media. If you write a letter to the media about it, most times it is not published.

Senator BOLKUS—You probably get the other side of the argument saying the same thing.

Dr Reece—No, I do not think that is so.

Senator BOLKUS—I am sorry, they would say the same thing. You do not deny that. They have enormous problems getting their point of view across.

Dr Reece—They may do.

Senator BOLKUS—There is no talkback announcer across the country who might be sensitive to gay issues.

Dr Reece—Most of the talkback announcers—I have written to a few of them at length—are not prepared to discuss this on air. It is the same very much in academic circles, particularly in sociology. It is very politically correct. Can I use that term?

Senator BOLKUS—You can use that term, but from what I can see there is a lot of research going on. Maybe you do not like the outcome of the research. That is a different argument, but you cannot argue it is suppressed and censored—

Dr Reece—Yes, I can.

Senator BOLKUS—Without any real identification of someone who may have been suppressed or censored. The censorship laws in this country are quite often criticised for being too liberal by probably part of the community that has your concerns in this area.

Dr Reece—Yes.

Senator BOLKUS—How can they be too liberal on the one hand, and accuse people of being censored out of the debate on the other?

Dr Reece—That liberalism becomes an orthodoxy. I have friends in sociology who have tried to publish formal articles in this debate after years of research, some of which I was to present today—

Senator BOLKUS—But I know lots of people in other fields of science and thinking who also would like to get things published but because of quality and other reasons they cannot.

Dr Reece—Yes. It gets back to an old debate about why things are censored and not published.

Senator BOLKUS—Why things do not get printed is different to why things get censored. There may not be censorship at all. Maybe the quality denies them access.

Dr Reece—Most of the people I know refer to this. We might know different constituencies, that is true. Could I just rephrase my thing. Where it is just homosexuality, the number of other slides I have to go is probably limited. There are other aspects of marriage, insurance and culture which are relevant and are all enclosed in the bill. Just on homosexual issues specifically, there are certainly more slides but it is more limited than the whole number that I had prepared.

CHAIR—You have the advantage of me. You know what is in there and I do not. I would reinforce the point that I did have difficulty in following the presentation at the rapid speed you were going at and we do have time constraints. It is entirely in your hands, but I think you will find that the committee will get value out of questions and an interchange between us. I will leave it up to you to make the judgment.

Dr Reece—Shall we just try for a little bit more and you could give me a bell in 10 minutes. Shall we do it that way?

CHAIR—Yes. It will leave 10 minutes for questions.

Dr Reece—That might be enough. We will see how far we can get. Would you be happy with that?

CHAIR—Not entirely. I really cannot say not to do it because I do not know what is contained in your slide material. The material you earlier presented I found was not entirely wasted but I had great difficulty in following it through. I think it would have been better if you had given that type of technical, detailed statistical information in a written form where it would give us time to study it and compare it. Some of it is included in here. I will leave it entirely in your hands. I do not want to stifle you in any way.

Dr Reece—May we try, and if you feel I am not communicating at the speed of light just tell me.

Senator COONAN—I would not object if you showed the slides, but what I really do not understand is what you are actually trying to do here. We have a bill and we are looking at whether or not discrimination exists which requires, as a matter of public policy, these sorts of issues to be dealt with by an act, by legislation. However you view homosexual behaviour, whether you think it is blameworthy or not blameworthy, whether it leads to bad health practices or whatever it does, it exists. Homosexuality exists and there are certain consequences of a discriminatory nature that appear to be—this is the flavour we are getting from the evidence we are hearing. I would really be helped if you could tell me what it is about this bill that should not be there or that could be improved or does not address some of the concerns you have that are not public health ones and cultural ones.

Dr Reece—Yes. I have great problems with the bill because I think it probably in general crosses the line between special rights and protection. You see there is this problem, I think, in legislation between protecting a group who may be victimised, or may be perceived to be victimised, and yet granting them special rights by comparison with groups not included in the bill. That is the first one.

The other problem which just occurred to me is this whole question of gay hate

crimes and victimisation and gay bashing which obviously bothers me enormously and is a real problem. I think it is worth reflecting on the statistics in this matter. You will see this area is covered in my submission under the appropriate section. The latest data from the Australian Institute of Criminology shows that two per cent of murder in Australia is of homosexuals. If we are right that about one to two per cent of population is homosexual then that is exactly what you would expect. Do you understand? The next problem is: is this problem increasing? Again, Stephen Tomsen, from Newcastle University has looked at this. He has just published a report. He said he would send it to me. I have not received it in the last month. He actually documents 42 cases in the six years up to 1996 and 31 cases of what he believes to be gay murder in the 12 years since. That is a borderline statistically significant decline in gay murder and the p value is 0.06. That suggests that not only is this problem not over-represented in the general community but it is actually falling.

The next question is: why gays? And the answer comes back to the central, if you like, ritual of the community which is the party scene on weekends. We know, again from Australian Institute of Criminology data, again on general murder, that there are about 12 major risk factors for murder in Australia—and forgive me if I forget some—but things like being male, being in the age group 20 to 40 years, being unmarried, being single, sexual situations, situations of prostitutes and client, love triangles—those sorts of situations, alcohol, drugs. The time of week is very important. Saturday night is disproportionately over-represented for obvious reasons—party night, alcohol, drugs. If you actually do the proportionate calculations you find it is about three times the normal rate on Saturday night.

One of my slides deals with this area and my objective in making the slide was to put in one colour the risk factors which the homosexual community have and then the other colour the risk factors that the homosexual community do not have. Do you understand? When I made the slide I realised that they had all 12: the alcohol, the drugs, the sex, the triangles, the prostitution, the whole thing. In a sense if one seriously wants to work on the problem of gay hate crime you can say what it is about the homosexual community that is predisposing them to all these risk factors and what can we do so that these people can enjoy life and be happy, healthy, wealthy and wise sort of thing and not predispose them to this high murder rate. But you really look at changing the gay community behaviour in this central ritual that they have.

Senator COONAN—And also attitudes from non-gays perhaps?

Dr Reece—Yes, that is very important. As I understand the debate a lot of it occurs between gay activist groups. The other thing to consider seriously here is abuse rates in homosexuals as children which are high. You get back to the debate which you already heard between biological origin and genetic origin and environmental. But the point is if there is serious major abuse occurring early in childhood or through development then the person can grow up thinking life has always been that way and it has been

but it is not actually genetic it is due to a highly dysfunctional thing. That means that you get people who are very traumatised and hurting who come up with, 'Well, we have to change the rules. I was bashed and hurt or raped or whatever as a kid so therefore we have to change the rules of marriage or something'. That does not follow at all. There are a lot of things happening like that.

Senator COONAN—I can see that you have a lot of concerns. I know you have a pile of material there so I am just picking out one thing. Do you say that this bill really gives special rights that everyone else in the community does not have? Can you identify what they are? I think that might be an area we would like to hear some evidence about if you have that view?

Dr Reece—All right. Before I came in I heard a discussion of what jobs and what roles you think homosexuals could do and should not do. There is a lot of data and it is dealt with in the submission, the maroon submission, concerning paedophilia and child abuse. We know that child abuse is one of the major things that predisposes people to homosexual development later on and not only do we know—

Senator BOLKUS—How do we know that?

Dr Reece—Most surveys that have studied it, particularly reputable surveys, have found exactly that and you will find—

Senator BOLKUS—Can you produce one or two for us?

Dr Reece—In Australian data, you will find the New South Wales Department of Family Services data shows actually—

Senator BOLKUS—I would like you to produce one or two for us. Just take it on notice and you might be able to bring them back to us.

Dr Reece—It is dealt with. I will give you the page, if you wish, in my submission. It is page 34, from the New South Wales Department of Family Services. Then again, there is the SMASH data, which I have already shown the slide for, on page 28—you will see the age of initiation there.

Senator BOLKUS—Page 34 does not show anything. Just for the record I will say that.

Dr Reece—The illustrated pages have wrong numbers on because—

Senator COONAN—It is all right. I have got it. It is New South Wales Department of Family Services data—so what were you directing us to, I am sorry?

Dr Reece—I am saying that on that page, we see—if we just turn the page, the following page—the first illustration. That data showed that for an N of 515 of sexually abused boys, 89 per cent were homosexually abused. Do you understand that first graph?

Senator COONAN—Yes, I understand.

Dr Reece—The second graph looks at abuse of girls, and it shows that four per cent were homosexually abused, and yet lesbians only represent about 0.5 to 1 per cent of the community. You turn the page to the following year; the same source shows 90 per cent of boys in New South Wales were homosexually abused, which is what you would expect because the victims are male, most abusers are male, so therefore most abuse is going to be homosexual. For girl abuse that bottom graph is actually slightly wrong, because it is the wrong year. It says 1992-93, and I apologise for that. You will find that it is correctly referenced near the back. On the second last page, there are a few editorial changes I have put on the paper, inside the back. If you look on page 74 at the bottom you will find again five per cent of homosexual female abuse. You see again they are over-represented. That data shows that quite unequivocally, and that is represented on page 3. That is that analysis. That data is just presented in a page and the reference is given there.

Can I ask you all to turn to page 28? This is a graph lifted straight out of the SMASH report. Okay, have you got the age of initiation on page 28? These are the figures and it presents graphically what is presented in SMASH in a table—seven per cent of the respondents under the age of 25 have been having sex less than the age of 12 years old. Now that is clearly homosexual. Twenty-nine per cent of them have been having less than the age of 16 per cent, and 62 per cent less than the age of 18. In New South Wales that is criminal—that is defined as paedophilia. You have got the majority of both of those under 25 and over 25 have been sexually abused. If I can just jumble you around again—I am terribly sorry to do this to you—

Senator BOLKUS—You say that pretty well.

Dr Reece—Sorry, I might not have actually presented the slide in here in hard copy, but it is on the slides. What I have said is that some of the people who are being abused are teenagers. Do you understand? They are less than 18 but more than 12, okay? What we know—again this is New South Wales Family Services data, and the slide is not there in hard copy but it is in my set—is that a very significant number of those young teenagers go on to homosexually abuse younger boys, just as they have been homosexually abused—so, younger boys. Therefore, if I could just come back on that point to the gay hate crimes, the murder that—his name has fallen out of my head again—Steven Tomsen was talking about—he says the majority of gay murders actually occur in public toilets. The standard defence is that a man goes in, he is assaulted by someone in there and then the offender actually becomes the victim of the murder. Do you understand? The question is clearly that the offender is overwhelmed by the potential victim.

Senator BOLKUS—Can I just ask what your fundamental problem with the bill is? We have heard all this. Do you want legislation to bring in more penalties against homosexuality or—?

Dr Reece—Yes.

Senator BOLKUS—Is that what you would like?

Dr Reece—No, that is not what I am saying.

Senator BOLKUS—Can we get back to the bill, I think that might be constructive for all of us. What are the problems you see with the bill?

Dr Reece—Section 6 mentions homosexual marriage—what the problem is with homosexual marriage.

Senator BOLKUS—Section 107 does not refer to homosexual marriages at all.

Dr Reece—On page 55 of the bill it says:

Part 6—Same sex couples

On page 7 of the notes, clause 107, part 6, it says:

This part confers rights, entitlements and responsibilities on same sex couples similar to those applying to de facto couples of partners of the opposite sex. Under clause 2 of the bill this provision comes into effect six months after the act is passed into law to enable the necessary amendments to other acts to be made.

With all due respect, this rewrites the Marriage Act, at least from the point of view of de facto—

Senator WOODLEY—That is absolute rubbish.

Dr Reece—I am a doctor so I do not know law.

Senator WOODLEY—I know how the bill was written and that is rubbish, but keep going.

Dr Reece—My impression is that the legal standing in law for de facto heterosexual couples is similar—

Senator WOODLEY—Do you know what the Marriage Act is? I am a celebrant so I know. You are talking rubbish, but keep going.

Dr Reece—That is one of my concerns. That seems to be one of the primary purposes of this bill—homosexual de facto marriage. As a layman, my understanding is that at law, de facto marriage has many similarities to full traditional marriage.

CHAIR—Other witnesses have done this in the past. You understand section 107 to be about same sex marriages. As section 107 reads now, which deals with same sex couples, you are reading that to mean same sex marriages.

Dr Reece—Yes.

CHAIR—Other people have done that in the past as well, irrespective of what the words are. You have a right to do that if you choose.

Dr Reece—I am not seeking to argue a legal point.

CHAIR—Is that particular section your major problem with the bill that is before us?

Dr Reece—That is probably the biggest problem, that is right. However, the whole treatment of the HREOC in this bill is clearly, to my mind, preferential. They can write their own rules of evidence. They consider evidence that is not considered in a court of law. They cannot be subpoenaed by a court of law. If the HREOC is being sued then the individual cannot be sued for what might be his particular behaviour in some matter. That section is wide open to abuse by a homosexual sort of thought police type apparatus. I am very worried about that.

There is the whole thing of financial opportunism which is a major thing I have mentioned. There is the insurance thing which is part of it. There are the fines which are meted out by the HREOC. There is the whole funding matter. Obviously, the homosexual lobby is funded under the AIDS budget but the whole funding issue is going to occur through the HREOC is a problem. There are major financial implications, particularly at a time like this when we all know about the budget constraints. I think that is a very big component.

Senator COONAN—The infrastructure for most of the regulatory framework is already in existence and this really just adds to it a whole omnibus of things that can be dealt with. The procedures that the Human Rights and Equal Opportunity Commission follow are followed by most tribunals. Most tribunals try to make proceedings less terrifying for people. They try to simplify evidence so that instead of being in a court of law where you need to have a huge armoury of legal representatives, you do not need that now.

These were designed to assist everybody, together with very detailed conciliation procedures so that you are not always going to court. They are looking at ways in which

we can all get on in society and live together and people's grievances can be aired in a forum that they can afford. It is going to try to deliver some sort of justice to everybody. That was the intent behind it.

Just going back to your fundamental concern with the bill which was the aping of marriage, if it can be described that way. There must be some basis where people of the same sex can live together on a genuine domestic basis, which is what is referred to here, and not be vilified or discriminated against. That is really what the act is getting at. If that is right, do you have any objection to that general purpose?

Dr Reece—In principle, in a way, no, just from what you have said. In science we do in-vitro experiments all the time in the lab. The question is what relationship this has to the real world. I think this is the problem here. In principle if a homosexual de facto relationship was just like a heterosexual relationship, there would be no problem. The problem is the great reality chasm between principle and practice. I showed you that only 20 per cent of homosexual relationships last 12 months. So what are you trying to protect with law? As soon as it is here, it has gone. Besides, you just saw the data that most of those who are in that situation are having partners outside anyway, so there is no concept of monogamy.

Senator COONAN—Certainly, in New South Wales—we are not speaking for other states—in a de facto relationship between a heterosexual couple there is a two-year qualifying period before all sorts of property rights are acquired. It may be that those sorts of things are constructive suggestions that you might like to make about how this could work better. We would be very grateful to have constructive input on ways to make this better. This is our job—to try to make this workable and fair.

Dr Reece—It depends a bit on what your primary concern is. This is a bit like a motherhood or umbrella statement—trying to address maybe six issues. It really depends on exactly what question you are asking. As I say, in the hate crimes area there is no evidence that I have seen—certainly the Australian Institute of Criminology has no evidence—that there is a real problem or a growing problem. In other words, the current laws we have against assault, battery, murder and rape or whatever seem to be doing a good job. One thing that is not dealt with in this is what happens to boys who walk into public toilets, who are not in this situation. Do you understand? That is a real concern.

It depends which question you are asking within the whole thing. If you are going to have a two-year qualifying clause you probably are only going to accept about 10 per cent of homosexual couples. Then you have got to accept that exclusivism is not in the homosexual scene in the way that it is in the heterosexual scene. You are trying to pass a law that says apples equals oranges, and I do not think you can write a law that way. You have to say: what is the question, what is the problem—and let us look at that. There is no question in my mind that some of the most hurting, upset, distraught and abused people in the community are in the homosexual scene. I know that because I work with them on

almost a daily basis. Their pain and grief cries out to be heard and cries out to be helped. Do you understand that? I feel that very strongly.

I have a lot of sympathy with you chaps on your side of the table because you are trying to introduce legislative type cures to make safe what is maybe not safe. Before they talk about insurance, where is the study and the research to show that, yes, they have the same longevity as other people? Data from countries all around world shows that people who are single or not married die before those who are married.

Senator COONAN—But say you are a heavy smoker, that is a behaviour induced condition that umpteen members of the community follow with impunity and insurance companies, from time immemorial, have been able to assess the risk. If I understand the evidence correctly—and I may not—all that is being said by people who are representing homosexuals and lesbians is: let us rate the risk according to what the conduct is all about. Let us not just say there should be a blanket exclusion. Human beings are not perfect and insurance companies will react accordingly. The data will be there and nobody is arguing with objective and proper criteria.

Dr Reece—Let me put the question back another way. Four major government sponsored surveys in Australia have shown that between six and nine per cent—in the SMASH study it was seven per cent—of homosexuals respondents are over the age of 50 years. Okay? The census figure is 30 per cent. That means four times fewer homosexuals survive to the age of 50, at least in the survey populations, compared with the general population. The studies which I am aware of in the world, which we have replicated here in Australia, show that they are dying very young.

Senator COONAN—They might have to pay very high premiums, but that does not mean to say they should be excluded. That is the point.

Dr Reece—Sure, that is right. But that is a very important thing, because that is not compatible. There are only a very limited number of explanations for the finding that there are very few old gays. Either they are dying young, or they are growing out of it, as most people do grow out of other sexual and drug addictions. Or it is a fashion that has been a recent fashionable trend. There is lots of evidence that has probably happened. But they are again behavioural things. This is something that has been grown into, it is a habit which is learned and, as I said, kids are abused and then go on to abuse younger kids. So that is a very important finding.

Again, you are saying to insurance companies, you will insure these people, HIV positive, HIV negative. And I have just shown you evidence that safe sex happens, people have got safer since 1984, but there has been a big relapse, there is a lot of studies to show that. So why come down with a big stick like Big Brother on the insurance companies and say you will. And by the time they take out an insurance policy at 30, what happens, the mean age of death we found in 1995 was 40. Are they going to pay

those insurance risks?

The cigarettes and alcohol analogy is a very powerful one. We do not proscribe, we do not lock them away or anything like that. However, what did the government do with those people? They put a premium on their use, so their taxes then fund those illnesses. People who do not like alcohol can quote you chapter and verse, and I am not into it to that extent.

There is no barrier to the entry of this lifestyle; it is portrayed as popular, and there are some terrible things which are inflicted on these people by the community itself.

Senator WOODLEY—I think our time has gone. In the presentation you did before, you said that the presupposition of the bill is that gay is good. Where do you get that from?

Dr Reece—I think it is inherent in almost every word that homosexuality is equivalent with the heterosexual general community in what is happening. That is one of the standard aims of the homosexual political machine; that is pretty well known.

Senator WOODLEY—So the bill is a product of the homosexual machine, is it?

Dr Reece—I think it is stated to be in the way it was—

Senator WOODLEY—You have not read the bill.

Dr Reece—In the preamble it says extensive contact within the homosexual community.

Senator WOODLEY—I will ask you another question. You say that statistically gay people do not have stable relationships. I have got to say to you that I counselled with many gay people, I do not know what the statistics are, and if they do not have stable relationships, I would suggest to you there are many factors that are related to that, such as the inability of them to sustain relationships because of the pressures in the community. And, of course, you could hardly say that the heterosexual population has very many stable relationships these days anyway. Only 50 per cent of marriages last; we are just slightly above 50 per cent at the moment. But I have got to say to you that I know many gay people who have long-term stable relationships.

Dr Reece—Yes, sir, I accept what you are saying. I am not disputing that in the least; not at all. There are obviously many people in long-term stable relationships. What I am saying is that statistics worldwide, and those from this country confirm that, show that the majority statistically on average have unstable relationships. I just showed you the figures from Sydney. And not only that, they are not exclusive within those partnerships. In fact, it is not unusual in relationships to have rules for extra partners on the side.

The other comment, everybody in Australia knows that the divorce rate is half the marriage rate, 40 per cent of the marriage rate. However, the ABS figures show that 88 per cent of Australian marriages are intact. The ABS figures also in my presentation, which we do not have time to go into, show that marriage protects you from nearly 30 different diseases and syndromes, which is the opposite of homosexuality, I am sure you will note, because it predisposes to many different, even brand new diseases. KSHV, herpes virus 8, was only discovered in the last 12 months.

To equate in any way traditional marriage, with all its benefits, with homosexual relationships, with all its negative downsides, just shows, with great respect, a total misunderstanding. I do not mean deliberate: I mean suppressed. I have looked at this for years to find out a lot of this stuff.

Senator WOODLEY—So have I.

Dr Reece—And these are the conclusions I am sharing with you.

Senator WOODLEY—Right. My conclusions are different. I do not think there is much point.

CHAIR—Thank you for coming along this afternoon.

[2.57 p.m.]

BREEN, Reverend Peter Stewart, Chairman, Task Force on Public Morals and Social Reform, Wesleyan Methodist Church of Australia in Queensland, 53 MacIntosh Creek Road, Gympie, Queensland 4670

EARLE, Mr Peter Charles, Pastor, Christian Outreach Centre, 322 Wecker Road, Mansfield, Queensland 4122

MULHERAN, Pastor Brian Francis, Pastoral Facilitator, Area Pastor, Christian Outreach Centre (Mansfield), 322 Wecker Road, Mansfield, Queensland 4122

SPENCER, Mr Alec, Representative, Assemblies of God, Queensland Conference, PO Box 3406, Hyperdome, Logan Holme, Queensland 4129

CHAIR—Welcome. The committee has received submissions from the Christian Outreach Centre, from the Reverend Peter Breen, the Everton Hills Wesleyan Methodist Church, and from Mr Spencer on behalf of Reverend John Lewis from the Assemblies of God Church of Australia, Queensland Conference. We have already this morning determined to receive these submissions and to publish them. We have also been given a supplementary submission from Reverend Breen from the Wesleyan Methodist Church. Is it the wish of the committee that this submission document be received? There being no objection, it is so ordered.

I will just turn for a moment to a bit of housekeeping. I must mention here that our previous witness, Dr Reece, tabled a number of copies of a newspaper called *Brother Sister: Lesbian and Gay News Entertainment Culture and Clubbing*. I now invite you to speak to your submissions. You are aware of our time constraints and I would ask you to be brief.

Mr Breen—I will preface my submission with what I handed out to you. That indicates that our church is committed to both pastoral care and prophetic ministry, for want of a better word. Our church is opposed to discrimination. Our church was born in the struggle to abolish slavery and as a church we vigorously oppose the basic denial of human civil rights due to race, gender or national origin.

Our struggle is to be both pastoral and prophetic and yet we are unequivocally committed to being prophetic in declaring what we believe are absolute truths for human behaviour. We take the spirit of the bill to oppose discrimination. However, as I said in my submission, it seems to presuppose the practice of homosexuality and that that orientation is legitimate. That certainly came through from the previous speaker and the debate that ensued here. We do not accept that that is legitimate behaviour. We do not believe it comes within the issue of discrimination against gender. We think it is a fine line. But we are, of course, totally opposed to such things as gay bashing or any attitude

or expression that does not give any person dignity and value as a human being.

The greater concern for us, however, is the possible scenario that may develop if the bill becomes law. There is the possibility that the amendments that have been introduced may, in fact, be amended yet again to allow people from the gay community access to churches and to schools. That is our greatest fear and the reason we want to oppose the bill. We believe that current legislation is quite sufficient and it protects us and our religious beliefs which we consider to be incredibly important to pass on to our children.

We want to provide a safe environment for our children and their education. The increase and proliferation of Christian and church schools in the last 10 years is an indication that, given the different styles of schools, there is still the basic tenet of belief that parents want to provide education for their children that will equip them for living in the world. I do not believe these schools are monastic in any way. So that is our main concern, Senators, and is probably all I need to say.

CHAIR—Mr Spencer, do you wish to make an opening comment?

Mr Spencer—My comments are with regard to the actual bill. First of all, we subscribe to the virtues and values of justice for all. We have concerns with the bill in that it is debatable whether it gives special rights to gay and lesbian people. We feel that it does normalise the act of homosexuality and homosexual relationships. As a church, that is our concern—that it normalises homosexual acts and relationships. We also have concerns regarding homosexual same sex couples constituting a family. As a church we do not believe that same sex couples constitute a family.

In terms of the actual process of the bill going through parliament we feel that any bill, whether it be other bills or this one, should be representative of the majority of people. From Senator Spindler's comments, endorsement or passive endorsement of homosexuality and homosexual acts is the majority value of Australian citizens. We believe that is not the case and that that should be qualified prior to any bill going through the House. Whether that requires a referendum or not, I am not sure; that is for you people to work out.

In relation to Senator Spindler's comments referring to the church position on the matter when he quoted the Reverend Jim Wallis at the Christian parliamentary prayer gathering, it is the opinion of the Assemblies of God Church in Queensland that the Reverend Jim Wallis's comments do not reflect our church in saying that the issue of homosexuality is exclusively a civil rights issue and not a moral issue. We believe it is not just a moral issue, it is also a spiritual issue. For the church, the issue of sexuality is a spiritual issue as well as a moral issue. We feel that is a very intrinsic important point. In this case Reverend Wallis, who is a Christian and a practitioner of the Christian faith, has failed to see that sexuality is a spiritual thing, not just a moral thing, and definitely not

just a civil rights issue.

There is constant concern and annoyance amongst our own members because every time the church declares its position on issues of homosexuality it is called homophobic. I would just like to say for the record that our church's values and position is an act of endorsement of the concept and the precepts of a divine being of God and, by default, we are pro the values of Christ and not necessarily anti any particular group. So we are not homophobic just because we are pro-Christian values or Christ's values.

On that issue of tolerance, again Senator Spindler talked about the church and Christ being tolerant. While we are lay politicians and Senator Spindler is obviously a lay preacher, I just want to say for the record that Christ was not tolerant of everything and he definitely was not tolerant regarding issues of homosexuality. He endorsed the needs and the rights of the disadvantaged and the poor, but he was very active and direct and left no margin for confusion or error regarding issues of homosexuality or anything else that would cause a person to sabotage their eternal destiny.

What I am saying for the record here is that there is no question in the Christian doctrine that Christ was pro-homosexual or pro-tolerance. He was pro-human beings, not pro-sin—in terms of the biblical sense of the word. I go one step further with regards to that. I guess our concern is that if the bill should go through there is the chance that at a later stage the rights of the church would be undermined in terms of the appointment of clergy, acceptance into membership of a church, or appointment of staff. If we are forced by legislation to appoint people because of their homosexuality, or those types of issues, that would really amount to religious persecution. I feel that that is a very important issue that needs to be acknowledged by the Senate so that one group is not impinged upon because of the rights and the needs of another group.

In conclusion, we feel as a church that we have a right to reply, and I appreciate the Senate's hearing us on these issues. I am concerned with Senator Spindler's comments regarding Mr McNicol at the Christian Alliance Group and the way that he referred to Mr McNicol's comments in his address. Also, in a previous reference to his address to the parliament, he referred to any comments after he had made this speech regarding the community's response. He talked about hysterical misrepresentations. Almost in the reading of it, to me it felt like he was saying that any response made that was not pro-homosexual or pro the endorsement of the bill was an hysterical misrepresentation. I feel that that does not engender an open and intelligent discussion on this issue. I just feel that that needs to be said for the record.

There is a myth that I believe is being allowed to continue about the homosexual community. The myth is that it is a weak or misrepresented or misunderstood, or poorly represented, part of the society or part of the community. We believe that the homosexual community has a very powerful lobby voice, that it is very well represented and is a very articulate and well-organised and, dare I say it, even well financed group. For the record,

that needs to be said.

Four years ago, in November 1992, one of our state departments organised a workshop or seminar at the request of clients in one of our programs who wanted to get out of the gay scene. So we held a small workshop or seminar on that issue. That particular seminar was disrupted by more than 50 very vocal, very active homosexual young people who stormed the building, handcuffed themselves to staff, groped their genitals, bashed them, smashed property and so on. It took seven police officers more than half an hour to take these people out of the building.

The only act of tolerance which was expressed was by the people in the program by not pressing criminal charges against the very militant and very hostile groups of young homosexual people who took to task this particular issue. That was, I must remind you, undertaken at the request of clients wanting to get out of the gay scene. My comment in conclusion is that, as a church, we do not endorse the move of the bill through the House for the simple reason that it normalises homosexuality which, as a church, we believe is not normal and is not a Christian virtue or stand. Secondly, we believe that it—for want of a better term—sabotages the role of family in the normal biological sense of the family; it endorses a wider range of family. We feel that that is not the case. That is our position on it.

CHAIR—Thank you, Mr Spencer. Mr Mulheran?

Mr Mulheran—We view very strongly that the bill redefined, on page 7, what sexuality is, which included heterosexuality, homosexuality, bisexuality. Even the dictionaries still state that sex is a matter of gender—male or female—and not particularly homosexuality, or an orientation or a behaviour of sexuality. So this bill is not really concerned with sexuality, rather it is concerned with the orientation or the behaviour of sexuality. The word discrimination in part means to discriminate between good and bad. A right to discriminate between a matter of moral function or moral behaviour is a choice that people should not have to be legislated against having.

We, as a church, are for anti-discrimination laws and legislation opposing discrimination on such grounds as race, gender, colour and the like. But on the matter of morality, the church and any individual have a human right to choose what is moral, ethical behaviour. And as Christians, we believe that the teachings of Christ and the Bible clearly state what the moral ethics of society should be. In fact, our laws primarily have been birthed in Christian principle. To start to legislate against moral choice would be a very sad state of affairs for this society.

We believe that the bill need never be put forward as legislation because the rights of every human individual can be clearly dealt with in other facets of society and the law. We are against gay bashings, demeaning harassment of homosexuals and that type of thing. That is not what the church's issue is with the actual bill. Our church's issue is that

it is encroachment on human rights as a whole within Australia to choose what is good morally and what is bad morally in the essence of sexual orientation behaviour. It is not a matter of sexuality discrimination but a matter of behaviour.

There was a study done in the United States, a nationwide poll, where 71 per cent of the people interviewed believed that male homosexuality was morally wrong and 70 per cent held the same view about female homosexuality being morally wrong. I believe that if we did a survey of the same thing we would come up with similar figures in Australia. The majority of Australians believe that sexual behaviour and orientation outside of a heterosexual couple within marriage would be morally wrong.

The United Nations Declaration on Human Rights states that the state may claim on two grounds to legislate on matters of morals. The Platonic ideal is that the state exists to promote virtue amongst its citizens. If that is its function, then the majority in a democratic State must have the right and the obligation to declare what standards of morality are to be observed as virtuous and must ascertain them as it thinks best. The alternative view is that a State through its competent organs may legislate to preserve itself. This is the basis when the purpose of the law is to conserve the moral welfare of the State.

Even the United Nations states that a country like Australia, with its ideas of legislation on matters of morals, should take into account the majority in a democratic society. The bill deals with heterosexuality, homosexuality and bisexuality. Even in the case of heterosexuality, in matters of rape, incest, prostitution and things like that, they are moral issues and should be able to be discriminated against on the grounds of such things as employment and the like. It is a matter of moral choice, it is not a condoning. We should not have to be legislated against to condone a behaviour or an orientation that the church or society feels as immoral. Thank you.

Senator WOODLEY—Mr Spencer, I was trying to write down what you said but I think you said something like Christ was not tolerant of homosexuality and he left no margin for error in this, he condemned it outright. Did you say something like that?

Mr Spencer—He condemned all forms of biblical sin.

Senator WOODLEY—How do you explain that there is not a reference in any of the gospels to homosexuality?

Mr Spencer—I think you need to refer to the church fathers and the apostles.

Senator WOODLEY—We are talking about Christ, whose life and words are recorded in the gospels.

Mr Spencer—Christ very much endorsed the principles and the concepts and the

values of the Old Testament. He fulfils all the laws and precepts of the Old Testament.

Senator WOODLEY—How is it there is no reference at all to homosexuality?

Mr Spencer—There is no reference to many things.

Senator WOODLEY—It is very hard for you to make a statement like that that is so unequivocal when Jesus made no reference to homosexuality. There is no reference in the gospels.

Mr Spencer—If you are asking me, my answer is that Christ endorsed all the precepts and all the concepts of the Old Testament which clearly outlawed the act of homosexuality.

Senator WOODLEY—Well, I am afraid that in the gospels Christ said—

CHAIR—Order!

Mr Spencer—Senator, that is the only response I can give.

Senator WOODLEY—All right. I will take that on board.

Mr Spencer—I am not a theologian. That is my response—

Senator WOODLEY—Well, you are making a theological statement, my friend.

Mr Spencer—Okay. That is my response to that theological—

Mr Earle—I could oblige with a theological statement.

Senator WOODLEY—I am asking Mr Spencer who made the statement.

Mr Spencer—And I think that is a fair response—that Christ endorsed and carried out all the precepts of the Old Testament which clearly outlawed homosexuality.

Senator WOODLEY—Just a question to Mr Mulheran whose paper I have in front of me. You quote Leviticus 20:13 and Leviticus 18:22, which is part of the holiness code in the Book of Leviticus. It says there that:

If a man lies with a man as one lies with a woman, both of them have done what is detestable. They must be put to death; their blood will be on their own heads.

Do you say, then, that homosexuals should be executed?

Mr Mulheran—Obviously God made a very clear statement in the Old Testament of how abhorrent he found homosexuality. The Old Testament is full of the law which is to bring us to redemption in Christ. The law is to show up what is immoral and to give us a chance to say, ‘Hey, I’ve overstepped the line,’ in the same sense that a speed limit is set up to say, ‘Hey, I’ve overstepped the line.’ We are to keep within the bounds of that. And the grace God has given through us in Christ. Every single one of us has sinned in one form or another. Homosexuality is one sin that is outlawed. Adultery is another sin that was also, and bestiality—all of these kinds of things.

Senator WOODLEY—Okay. Let me ask you the question a different way. You would agree that certainly you would take the first part of that verse quite literally, that it is detestable. Do you not take the second part of the verse literally—that those people should be put to death?

Mr Mulheran—This is Levitical law, the law of the Israelites—

Senator WOODLEY—How do you make the distinction? You have got to help me. If you are saying one part should be taken literally, but not another part of the same verse, where is the logic in that?

Mr Mulheran—The scripture is literal, and that was the literal function of the law in the Old Testament.

Senator WOODLEY—So you are prepared to take the condemnation, but not take the second part of the verse literally?

Mr Mulheran—I am saying that the speed limit has one penalty at one particular moment in time; the fines go up, the fines may decrease. The penalty for the crime is not the issue. The fact that it is a crime is the issue. It is an immoral act that was put down in biblical scripture.

Senator WOODLEY—It seems to me you are making a fairly selective use of scripture.

CHAIR—Thank you for your cooperation on that. Pastor Earle, would you like to make an opening statement now?

Mr Earle—For the sake of time, I will not make a very long statement. I appreciate the time that you have given us. I just want to endorse that our view is certainly that we are not into gay bashing or anything like that. But we do have reservations about the bill in the respect that it appears—and I am not a solicitor or legal person and it is very hard for a layman to understand legal documents; I find it very hard to understand personally anyhow—but it seems to be that it takes a minority view and then builds it around that. I am not positive myself that the majority of the people are protect-

ed—although the minority certainly have got plenty of protections in there. I am also worried that the majority then cannot be taken from and that be abused in a court of law. Whether you are right or wrong in a court of law, it can still cost you \$60,000 to defend yourself. If a person has legal aid, it will cost them perhaps nothing and you everything, particularly for us, say, as a church. We are worried about the implications of what the outcome of this law could be.

We are also worried about the outcomes of the law when it begins to change family and values that we have had and what will be the outcome of that. We just feel that these things need to be highlighted, because we do believe in absolute values and we believe in some values, like life is precious, they are absolute values which we would all agree with. We have differences in defining what some of those are, but as a church we do have a biblical definition. So we believe the bill is more than just civil rights issues. We believe it is also moral issues which have spiritual implications as well and have implications to society and have implications to medical issues, and we could go on. We feel that these issues need to be sincerely looked at in the bill. So we would just like to voice that desire.

Senator BOLKUS—I just have one point and it picks up a couple of comments which I think reflect the concern, I suppose, of this committee, particularly as it is constituted today. Mr Spencer, at one stage you said that the concerns should be that the rights of one group are not impinged upon because of the rights and the needs of another group. I think, Pastor Mulheran, you put it in terms of for an individual it is a human right to choose what is moral and ethical behaviour. The easiest thing to say I suppose, to both of you gentlemen is, recognising that, should you not be somewhat more tolerant of homosexuality and people who choose to have a different moral code, ethical code, whether it is sexuality or otherwise, than your own?

Mr Spencer—In response to that, I think the church has a very definable and very succinct code of practice for its adherents. So what I am saying is that the church should conduct itself as Christ had intended it to. How society conducts itself should be based on the majority of people intend it. And I think you would agree with that—

Senator BOLKUS—For a long time, though, Christianity was in a minority. It did not necessarily make it wrong. In fact, one of the great things about our societies and our democracies is that there is responsibility to protect the rights of a minority; otherwise the rule of the majority is something that we rejected quite a few centuries ago under the Westminster system. So that is where, I think, the second part of the problem arises.

Mr Spencer—Senator, I understand what you are saying and I agree to that; it is hard thing not to agree to what you are saying. What I am doing here, I guess, is making clear the position of this church regarding the behaviour of homosexuality within the context of the biblical interpretation. And that is representative of the 30,000 constituents within our own church. That is true for us. I understand that, and all I am intending to do

here is let you know the position of this church.

I am glad I do not have your responsibility to determine the outcome of this, given the differences within minority groups and even the majority. It is a complex thing and I appreciate the nature of the issue and the decision. We, deliberately, as a church, do not wish to impose our values upon society. The benefit to a society of an enforced legislation is questionable.

We understand that the virtues and values that we are adhering to are given to us by Christ for the church, and I think for all his people, but if all these people choose not to adhere to it, then that is their decision, and we understand.

Senator COONAN—Following on from that, I think you have probably answered it. The church is absolutely entitled to its views and it is entitled to absolute respect, and I hope that is what you are getting here from us. There really is a wide gamut of views and permissible positions. But the opposite side of the coin is that we, as legislators, have to take, as we find it, a problem that exists. Without attributing blame to anybody, a problem exists so we are told, where people who are gay and lesbian are not able to access basic services that all of us need and want. Our job, whether it is by this bill or some other way of dealing it, is to first of all identify what the problem is and then try and identify the most effective and best way of dealing with it, just as we would be very vigilant to hear if someone was prosecuting the church or criticising you as a group—or you were not able to access certain things because of your religious views.

I appreciate the fact that you have all come here in a fairly reasoned way. But we really do have to look at how we, as a secular society, deal with a problem where people are really having some difficulties. As I say, maybe the act is not the best way to go, but at the moment we are looking at a draft and trying to find out from people who do have different perspectives what it is about that act that either does not address the problem, or does not address it adequately, or could address it a different way.

Mr Breen—Could I speak just for a minute in response to Senator Woodley's comments. He was taking one particular approach to the interpretation of the scripture, which was a literal approach. I understand that but, particularly in our particular denomination, we understand a literal and a cultural historical interpretation. He was taking a specifically literal one, and the rules of hermeneutics, that is the approach to scripture, demand the right approach. If you take only a literal view of scripture, you are going to be in deep water, because it has to be culturally and historically interpreted as well as literally, which I think may have helped.

But on the other side, in relation to—

Senator BOLKUS—He will probably write to you, once he reads the transcript.

Mr Breen—I would like to hear from him. I am no great theologian. The other issue is, in talking with Mr Michael Lavarch, the former Attorney-General, who was the member for our district, in relation to the second reading of the bill, Mr Spindler raised Mr Lavarch's objection to the bill. I rang him and spoke to him. His concern was that the Australian constitution does not allow for the bill. It is actually a human rights issue and we do not have a human rights part to our constitution. That is a major issue in my mind.

Senator COONAN—It will be struck down if it is not constitutional.

Mr Breen—All right.

Senator COONAN—Assume that for the purposes of the argument.

Mr Breen—The second thing he said in relation to the United Nations Commission was that, even though we are a signatory to it, it does not include sexual orientation, although the High Court may rule such. That to me seems to be a fairly flimsy means of passing the bill, if the High Court may rule sexual orientation as being what the United Nations Commission was—

Senator COONAN—They are matters of interpretation. I take on board what you say, but I was more interested in the more philosophical approach to how we as a government and we as a bipartisan committee, in a sense—there are people from different parties here—best address the problem. I think Mr Spencer put his finger on it, if I may say so, where he said that you are not seeking to impose your views. You want your views known, and maybe that is really the answer to my question. I have answered it myself in a sense. You are not suggesting that we should take what you are saying as something that should influence us in the sense of how we look at what the need is and how we deal with it.

Mr Spencer—I do not think Christ ever intended the church to become the state. I think that is a fair comment. The principles of the church apply to the adherents of the church and also to society if it so chooses, and the eternal rewards are there for them. But I would reinforce, despite the former senator's question of Christ and tolerance, that it is the position of this church and it is the position of the New Testament and the Old Testament that homosexuality is not appropriate behaviour for spiritual reasons. It is God's law for God's kingdom. I did not write it, I am just declaring it, so do not shoot the messenger in that sense.

CHAIR—Nobody gets shot in front of this committee.

Mr Spencer—Just to answer your previous question, obviously there are issues of civil rights, there are issues of normality of access to superannuation, insurance and so on. I think the concern that we have—and I will just reinforce this—is the normalisation of what we perceive as abnormal acts and abnormal relationships. Although that is not the

perceived intention of the bill, that is how we, as a church, read the bill—that it normalises an abnormal act.

Senator BOLKUS—I just want to pick up a couple of points in terms of the constitutional aspect that you raise. We have heard lots of argument about those points. As you said, the previous attorney was of the view that the High Court would probably uphold legislation, but it is worth knowing in terms of the marriage power that the position of the committee, without trying to pre-empt it, is that we do not have power to pass legislation which would include same-sex couples under the marriage power.

The other thing is that you were worried about later legislation impinging on the church, I think the section in the constitution which protects freedom of religion, section 116, in the way that it has been interpreted and probably the way that it will be interpreted if it is ever tested in the future, will provide a pretty strong guarantee for religious diversity and the practices of a religious institution as well. To that effect, any legislation that tries to impact on the religious institutions of this country would also have constitutional problems.

Mr Mulheran—It is not just the churches, but it is the people in the church, the businesses in the church, the people out there in the community, people who run child-care centres. Do they have to employ homosexuals? It is not just a legislation against the church: it is about the moral behaviour of people. We have children whom we love and care about, and we do not want to allow them to be taught wrong morals and be influenced by wrong moral behaviour. The legislation is, as far as I can read the bill, for employment grounds and things like that, and they are moral issues which our children should not have to bear the brunt of because of legislation that forces an immoral situation. It is not just from our church point of view: the people who employ other people within our church should have the right to discriminate on those grounds.

Mr Earle—What we are concerned about is that we appreciate that in the legislation there is protection for churches, but churches are—as Brian has mentioned—only a collection of individuals. What if the religious individual has very strong religious beliefs? Whether we agree with them or not is not the issue here. What about the protection of the individual so that they can have their religious belief and conduct their business in the confines of their religious belief, without having to be impounded by someone else's religious belief? This could include many things more than just sexual discrimination, obviously. That is an area that I do not know if the bill addresses, since I am not an expert on reading the bill. When I read it, I was more confused than when I started. But, there again, that is your job and not mine.

Senator COONAN—You keep reminding us of this!

Mr Earle—Our job is to say what some concerns are. Hopefully, you can find the answers to those concerns as a member of the public, and yet be considerate of all the

parties in this situation. But we are deeply concerned, as Brian said, that the religious belief of an individual would not be protected.

Mr Breen—As a pastor, I am deeply concerned at the way people treat people who have different a sexual orientation. I think it is inhuman and unchristian, and that is where the pastoral side of things comes in. I do not think you can legislate that, because people have a reaction to this kind of behaviour, and that is just the way it is; that is fact. I do not think you can legislate moral reaction—the way people react to life, whether it is fear towards a snake or whether it is fear towards some other perceived threat: and that is from my pastoral heart.

But, in terms of the need for the churches to declare what is true, as Alec was saying, we are messengers of the Kingdom. We are convinced of the Kingdom of God and that there is such a thing as absolute truth. You get into muddy water when you try and interpret it, and that is where the different denominations come in. But there are some things that are given and, as far as we are concerned, this is one of the givens.

The other side, in response to the Senator, is that I also hope that we have religious freedom that goes on ad infinitum in this democracy. There has been a bit of a push. I have got a quote here from Wayne Morgan, a lecturer in law at the University of Melbourne which suggests that ‘exemptions for religious institutions should be deleted.’ That is our fear, you see: that, as this legislation becomes law, if it does, that will be the next step. That is our fear. And there was another suggestion from a lecturer in international law and constitutional law at the University of Melbourne that exemptions should be kept to a minimum, and that there should be control over what is said from the pulpit in sermons. That is an infringement of religious freedom. That is our fear, and we would like you to hear that.

CHAIR—There is a final question from me and then, unfortunately, we have to wrap it up. In the opening comments, a number of you gentlemen at the table said that you do not agree with poofster bashing or whatever, and I inferred from that—and maybe I am wrong—that you accept that that type of behaviour is happening out there in our society now.

Mr Earle—We accept that every type of behaviour happens out in society. We are not saying how large or how small it is, but we understand it is a case of ‘you name it, and it happens’ in our society. Obviously, it does.

CHAIR—That violence can, in a sense, be dealt with under different laws. As the committee has traversed the country, we have been given a number of examples of vilification, and here are just some that I got from the Queensland set of witnesses on the vilification of people. The first one reads, ‘Gay rights? Under God’s law, the only ‘rights’ gays have is the right to die.’ It is attributed to Leviticus 20:13. The second one says, ‘Register poofsters, not guns, before they kill us all.’ There is another one here which I

could not describe for the record. Is this not evidence—with the type of discrimination you are looking at—of the need for that type of legislation?

Mr Mulheran—I think it can be controlled in other ways. There does not have to be legislation to force somebody to accept the behaviour. I have got a friend whose brother is a homosexual. He does not feel harassed or anything by conversations that we have. I do not accept his moral behaviour—

CHAIR—Sorry; I thought it was a reasonably specific question. This type of behaviour is happening out there in society now. Is not legislation, of the type we are looking at, needed to prevent and stop that type of activity?

Mr Earle—That is only one way.

Mr Mulheran—But any sort of bashing should be a convictable crime: whether it be gay bashing or heterosexual bashing, it is a convictable crime, is it not?

Mr Earle—I understand what you are saying, but we are saying there is a broader issue than just that one question. We have got to be careful that, in looking at only the one question, we do not ignore so many other issues that we are worried about.

Mr Spencer—You have tabled some evidence regarding possible vilification, I guess. I have tabled evidence that staff from one of our agencies was subjected to the same extent of abuse, if not more: it was criminal action, basically. My question would be whether the same legislation would apply to all people in society who were subject to abuse of this nature, for whatever reasons, whether it be race, religion or sexuality. That is the issue for me.

I would like to raise one other thing. Recently, we accommodated a 14-year-old transsexual in our facility because no-one else, not even members within the gay community safe houses, could or would accommodate this 14-year-old who was HIV positive and various other things. This young person was also under illegal hormone therapy because he was raped by his father. I find it interesting that we are perceived as very right wing and red-necked and other things by society; yet, at the same time, we were the only response group in the community that would provide accommodation and care for a 14-year-old transsexual referred by a gay lobby group.

CHAIR—That is a very good answer to the question I asked.

Mr Spencer—I think you know what I am saying.

CHAIR—I know what you are saying. I am trying to wrap it up. I think I have given you time to do it. I do have to call a halt to it, because we have another set of witnesses who are a half an hour late. Reverend Breen, Mr Spencer, Pastor Mulheran and

Pastor Earle, thank you very much for your attendance here this afternoon.

[3.47 p.m.]

JOHNSON, Ms Kristine Maree, Secretary, Australian Transgender Support Association Inc., 570 Lower Bowen Terrace, New Farm, Queensland 4005

MATHER, Ms Gina, President, Australian Transgender Support Association Inc., 570 Lower Bowen Terrace, New Farm, Queensland 4005

CHAIR—Welcome. Is there anything else you wish to say to the committee regarding your appearance here today?

Ms Mather—I am a 54-year-old post op transgender.

Ms Johnson—I am a 33-year-old post op transgender.

CHAIR—Thank you. The committee has received and published your submission. It is numbered 110 of the submissions that we have received. I invite you now to make an opening statement and at the conclusion of your remarks I will invite members of the committee to submit questions to you.

Ms Mather—I would like to clarify the situation as regards the terminology: transgender, transsexual, transvestite and drag queen. Some of you may not be quite conversant with the terminology. A drag queen is basically a gay male who dresses up in outrageous feminine attire purely for stage purposes or for fancy dress parties and mardi gras. A transvestite is, 90 per cent of the time, a married man who, for social, sexual or just purely for the physical comfort, dresses in female attire. He has no desire for the gender reassignment, or sex change.

The terminology ‘transsexual’ or ‘transgender’ is basically the same. We utilise the word transgender because in Queensland we have found that it is more politically acceptable—the sex part comes out. It does not matter where you go, all over the world, in America, they utilise the words transsexual and transgender. We use transgender in Queensland because it is more politically acceptable.

A transgender is someone who, from an early age, mainly four- to five-years old, knows that they were born of a different biological sex to the one stated on their birth certificate. Some, from an early age, or from when they are old enough, perhaps 13 or 14, will try to live the part of the opposite sex. Most do become successful. In my position, because I am 54 and I was born during the war, if I had ever come out publicly and said what I was, I most probably would not be alive today. In those days there was electric shock treatment, deep sleep treatment and all that. So I chose not to come out because I wanted to keep my sanity and I was trying to overcome this slight problem which I thought was a problem.

I could not understand why I was a bit different to other people. I never got married, even though I had opportunities to get married. I played footy for Queensland. I did all the macho things. I went overseas. I spent 19 months in Vietnam and yet I could not get rid of this underlying desire to be a member of the opposite sex. I held a position with the government for 25 years and nine months, and rose to a very good position in the union movement. As a matter of fact, Mr Peter Beattie was the union secretary of the stationmasters' union and I was the secretary of the ERU, and I had more members than him. But that does not help me any more, at this stage.

It got to the stage where I finished up one day and I just could not handle it. The suicide rate is 46 per cent now, so that in itself speaks volumes for what goes on, and that is a proven study done by the University of Sydney, I think it was, two or three years ago. Like many transgenders I tried to kill myself—in a car. I hit the tree and I killed the tree, I killed the car, but I survived. It came about that in my hospital stay I was delirious enough to discuss it. The psychiatrist suggested that I did something about it, otherwise I would commit suicide. This was seven years ago. So I did. I resigned from the job and I came to Brisbane. That is when I started to learn about transgenders, the vilification, harassment and your loss of everything.

I found that my superannuation was affected, because there is a clause there that asks, are there any things that you have not stated that should be known. Obviously I have already stated that I knew that I was a transgender since I was four years old. So I basically lost all my superannuation, a quarter of million dollars. I was giving \$128 a fortnight for 23 years of my life and they gave me it all back, plus three per cent interest. That really hurt. But, because transgenders have no rights, I had no right of redress. We are not included in any anti-discrimination acts; we are not included in any legislation to cover us in regards to right of redress. We had an instance where we had a post-op transgender who got vaginally raped, but the law states that biologically born males do not have vaginas, so they gave a \$200 good behaviour bond. That transgender committed suicide. So that goes to show you the problems in regards to transgenders and their sexuality.

Can I at this stage point out that transgenders' gender identify has nothing to do with their sexual identity, inasmuch as we run the whole gamut of sexuality. In other words, we can be heterosexual, bisexual, asexual or obviously lesbian or gay. In other words, being a transgender, even though it encompasses the sexuality aspect, we have gay transgenders bisexuals and they are all born that. So we have a literal smorgasbord of sexuality problems within the transgender community.

In regards to having jobs, I lost my job obviously and when I tried to get jobs, because of who I was, they said, 'No, because you are a transgender.' We have no rights to change our birth certificates post-operatively; we still cannot. So we are still biologically a male, even though you have a vagina. We have no rights in regards to having access to nightclubs, hotels and restaurants. We have been asked to leave nightclubs because 'of

our situation'. We have been asked to leave flat situations, units. In fact, sometimes it does not even get that far. Once they know you are a transgender, they refuse to sign a lease.

In regards to getting insured, or trying to get insurance, it is totally impossible. If you do not say to them over the phone who you are, what you are, there is no problem. Once you tell them you are a transgender, suddenly the insurance premiums jump 100 per cent. We have that in writing, because we are a liability, we are a risk, they class us as a risk.

We obviously cannot get married. If we have a post-op transgender who wishes to get married, they cannot. They can go to a metropolitan community church, which is basically a gay and lesbian type of situation where they are very tolerant, and they go through a type of civil ceremony, though it is not adequate in respect that most of the girls or guys, whichever the case may be, they would love to walk down the aisle in a proper consecrated service.

In regards to the hormones or a certain type of hormone which is a hair retardant, most of the girls cannot get it—obviously because the guys do not want it. They cannot get it because the Health Insurance Commission refuses to give us the right of access to it because we are not male and we are not female, but transgender. They refuse to accept the fact and give us these pills—and they will not mention the word male, they will not mention the word female, but they will mention the word transgender. We are still pursuing that issue, but we look like having a failure in that regard.

With regard to deaths, there are problems too. Some of the girls when they were young have got married and they have grandchildren, and a lot of their brothers and sisters have young children and are unaware of their transgenderism—and nor does the family tell them. But, unfortunately, when that person dies they will find out because it will state it on the death certificate. That is another unfortunate effect. It can be very traumatic on all the families. There are other areas, but I think I should now pass over Kristine Johnson who came out when she was 14, so she can give you a younger perspective.

Ms Johnson—As Gina mentioned I came out when I was 14. I was put on valium when I was 12½ years old—2½ milligrams four times a day. By the time I was 15 I was on 5 milligrams of valium four times a day. When I came out the doctor put me on the hormones because, as far as he was concerned, that was going to save my life. I copped everything—all the bashings, the beatings, the attempted rapes—the lot. Because there was not a great deal known about the effects of hormones all those years ago, 18 years later my liver is now starting to function pretty poorly and there is not a great deal they can do about that.

As Gina also mentioned, I can travel the world on a passport that actually says I am a female. But anywhere here in the country I am still, on a legal technicality, a male

and therefore I have no rights—none. I can be bashed, and that is just common assault. I can be raped, but they cannot be charged for it. I do not know what more I can say. We would just like to know that transgenders will be given a lot of consideration with this to help decrease the suicide rates and to make life a little bit more bearable.

CHAIR—It is probably a broader question than the committee has been charged with addressing under the terms of this particular inquiry, but leading on from what you have just said, do you think this bill that we have before us is providing adequate protection to transgenders?

Ms Johnson—I am not really sure if it would provide adequate protection, but it is a start—it is a foot in the door. At least it will give us something, and we can only go from there.

Ms Mather—As long as it mentions transgender. I have tried unsuccessfully to get a lot of legislation passed. But I have always noticed that when something has been achieved, as in carers leave, the term ‘transgender’ was omitted. We are not governed under the gay and lesbian umbrella, nor would we ever be. I have letters from the anti-discrimination people attesting that we are not covered under the legislation, therefore they cannot help us, unfortunately. They feel aggrieved that they cannot, but they cannot. But I do believe that once some inquiry or some legislation has transgenders being included, I think it will be a massive stepping stone for the inclusion of transgenders in the overall picture.

Senator COONAN—The most significant problem you would see, though, is the fact that you cannot really change your identity legally. Is that the fundamental problem?

Ms Johnson—That is what it basically comes down to. I am on the disability pension now. All that has now been changed to female. It was done years ago. Even my passport says female.

Senator COONAN—So you want that in relation to birth certificate and death certificate at least?

Ms Johnson—Yes, and if I am refused entry into a club because of my situation, I want to know that at least I have legal recourse. I have nothing now.

Senator COONAN—Do you normally tell people about your so-called position, or do people just make assumptions and then treat you according to their assumptions?

Ms Johnson—Sometimes. It depends on the circumstances. Sometimes you do have to tell them. With medical professionals, yes, you do. Sometimes you go into a nightclub where there are people who knew you from years ago and know who you are and what you have gone through, and they will tell management. Management will come

up and just say, 'We would like you to leave because you are upsetting the rest of our patrons.' So you do not really have to say anything or even act in a certain way. Somebody from your past who knows who you are and what you have been through is enough to get you kicked out of anywhere.

Ms Mather—We had a situation not so long back where one girl was working for a fast food chain quite successfully for 18 months, and, unfortunately, two customers who recognised her came in and told the management about her. The next day she had her marching orders. She had no right of recourse because she was a transgender. It was the same situation with a jumbo jet pilot who worked for an international company. They refused to employ him because of his transgenderism. We have policemen and we have lawyers who are all in the same boat. Although, I noticed in the paper the other day that there was a solicitor in Sydney at the present stage in that situation. But God help her, because I can tell you now that within one year she will not be working.

Senator COONAN—You have not mentioned anything about the difficulty with your operation and your choices and the things that were made available to you. Was it difficult getting help to make the decision and getting counselling and the drugs? What about the operation and the recuperation?

Ms Johnson—It is not so much a decision about whether you are going to change gender or not.

Senator COONAN—It is transition, is it?

Ms Johnson—The only decision you make is the decision to actually deal with it and do something about it. That is the only decision you make. When I came out all those years ago, there was nothing around. I had to fumble in the dark with my doctor, so to speak. We just went bopping along. I had to go into Kings Cross to find out everything.

What I had seen I did not like, because sex changers or so-called transgenders then were either known as sex changers or drag queens, and they worked either in shows around town or as prostitutes. A lot of girls are not into that. One per cent of the transgender population will do those things. The other 99 per cent just go out and try to blend in with normal society. But it is very hard to get help, especially when a lot of the medical profession do not even know what they are on about.

Senator COONAN—There must be some recognised specialists in this day and age.

Ms Johnson—There are now.

Ms Mather—We have a good core group in Brisbane where we do have psychiatrists that specialise in it, and doctors, and endocrinologists. We are very proud of that.

But that has taken years to encompass. A girl even just suggesting going on hormones could take one year of counselling, and then there are another two years of hormone replacement therapy prior to even the assessment for gender reassignment. So, from the outset, you are looking at, say, three to four years before the gender reassignment can be approved.

Then it is a financial burden because it is not government paid for. Obviously you have to pay for it yourself. Therefore, it is a high cost, so we are fair game because of the work position. A lot of the girls do work on the streets because there are no job opportunities out there. We are refused access to jobs.

Again, the story goes that once you are transgender, you come out and admit you are transgender. That hurt me; I just realised that they had no rights, nothing. I lost everything—friends, job, everything. But it was a commitment I knew I had to make. It was either that or I would not be talking to you today.

CHAIR—You told us earlier about your superannuation. I do not understand why you lost your superannuation. Can you provide us with a few more details?

Ms Mather—There is a clause on your superannuation form that states, ‘Have you said everything true and loyal. Is there anything else that should be included?’ I think it is clause 36 and you would need a microscope to find it, but it is there. I did not mention the fact that I was a transgender. I always have; when I came together I said, ‘Well, I am a transgender; I have always known since I was a four-year-old.’ Unfortunately, I did not mention that when I did my superannuation form 23 years ago. It is a matter of 35 years ago now. I did not mention it and they said—I was actually told by them, Suncorp SGIO, to take them to court, to try them. I said you cannot beat a government agency and I would not have had the financial resources, anyway.

Senator COONAN—Was this superannuation that you had contributed to, or was it an insurance policy?

Ms Mather—No, it was superannuation I was contributing to through work. It was taken out of my pay.

Senator COONAN—Do you mean that you did not get back what you had put in?

Ms Mather—Oh no, they gave me everything back, plus three per cent interest, but everything else I had lost totally. They gave me everything I put in plus three per cent, but the dollar for dollar and all that just went, the whole lot. They worked out my account would have had a loss of about \$250,000.

CHAIR—Thank you, Ms Mather. I believe we have had quite a deal of discussion as the committee has traversed Australia on the matter of the definitions as contained in

the bill and transgender has received some attention. I seem to recall in Perth last week we were strongly advised not to mention it as transgender. Gender dysphoria, I think, was the terminology we were recommended to use. Speaking personally, I am still coming to grips with all the terminology in this area.

Ms Mather—Gender dysphoria is a medically recognised condition. The medical profession uses gender dysphoria on their forms and prescriptions. But for me, if I went around saying, ‘I suffer from gender dysphoria,’ they would mostly say, ‘I hope you come good.’ They would not understand: ‘How long have you had that for?’

Ms Johnson—You do not have people going around now saying I am a homosexual, do you? They say, ‘I am either gay or a lesbian.’

Ms Mather—We utilise the terminology because it is more easy accessible. Even transgender is still hard for some people to say. You could say, ‘Well, I am transsexual,’ and they would say, ‘Why didn’t you tell me?’ But if you say gender dysphoria, as I said, they would just pat you on the back and say, ‘I hope you get over it.’

CHAIR—Are you aware of the South Australian legislation on birth certificates?

Ms Mather—Yes, they can change that. It was introduced by Don Dunstan, I think, in 1986. He was far ahead of his time.

CHAIR—Is that legislation adequate to your needs?

Ms Mather—To a certain extent. They still have the clause that states they have the right to refuse. I think that right to refuse can be very, very negative, inasmuch as someone could have had a criminal conviction and has since reformed, and they might be post-op, and they still have that right to refuse. I think that is a grey area there that could be investigated and checked out.

CHAIR—Another matter that has received a deal of attention, and also some media attention, is the matter of women in sport and transgenders in sport. It has been asserted that, because of the large amounts of money available now in some sports, it might be worth some people’s while to go for the reassignment in order to benefit from that. Have you got a view on that type of assertion?

Ms Mather—I totally will not accept that. No-one who is committed to having gender reassignment does it just for sport. No, it is not acceptable. I totally disagree with it. Those that have the operations and still continue with their sport, I admire. But they do not do it just for that reason. There is no advantage to be gained by having gender reassignment just to play sport. Far from it, I think there is a disadvantage to be gained, if anything.

Some of the guys get notoriety. You will get public awareness and lose a lot of rights. People will recognise you and, again, you will be victimised, humiliated and vilified. I would say they would do that because they love sport.

Ms Johnson—I think 99.9 per cent of transgenders will give up sport gladly, because that sport that they endure will end up building muscles that they want to get rid of.

Ms Mather—We have female to males. Does that mean to say they have their sex change so they can get a pension when they are 65 instead of 60?

CHAIR—There being nothing further, then thank you very much for your attendance here this afternoon. The committee stands adjourned until a date to be fixed.

Committee adjourned at 4.11 p.m.