

Criminal Code

earlier civilizations and they will think that the same thing will happen here. They will feel that we as parliamentarians have not produced the kind of law which will hold this civilization together.

In balancing my regret with regard to both the proposed law and the amendments put forward by the two hon. members I have to come down in favour of the amendments and I propose to vote accordingly.

[*Translation*]

Mr. Fortin: On a point of order, Mr. Speaker. In view of the fact that I am a new member and that I do not know the rules thoroughly as yet, I would like to know whether the minister will put an end to the debate if he speaks now?

Mr. Speaker: I have always been impressed by the hon. member's knowledge of the rules. However, I remind him that the minister does not close the debate by taking the floor now.

[*English*]

Hon. John N. Turner (Minister of Justice): Mr. Speaker, you have confirmed my understanding that under the new rules, despite the fact that the Speaker is in the chair, the minister does not close the debate when he rises to speak. However, we are limited to one intervention on each particular amendment. Despite this rule, I think it might be appropriate at this time if I were to address myself briefly to the third amendment appearing on the order paper under notices of motions pursuant to Standing Order 75 (5). If I may be allowed the same latitude as was given to the hon. member for Calgary North (Mr. Woolliams), I should like to digress somewhat to answer his point as found in his amendment, No. 7.

● (3:10 p.m.)

Briefly, it is the rationale of clause 7 that law and morals are two separate disciplines involving two separate philosophical propositions or concepts. It is the feeling of the government that certain private aspects of human life and relationships between individual human beings, despite the fact that in a pluralistic society they might be considered to be by some, in their own private judgment, as immoral, and by others to be less immoral or possibly, amoral, had better, in those areas of private behaviour, of personal conduct not involving public order, be left to private judgment and not be subject to the criminal or penal code. It is within this

philosophy, or collective judgment of the government, that we have introduced clause 7 to provide that the sections of the Criminal Code dealing with gross indecency should not apply as between a husband and his wife or between any two persons each of whom is 21 years of age or more, when both consent to the act.

Mr. Lambert (Edmonton West): In private.

Mr. Turner (Ottawa-Carleton): In private. In other words, when acts are committed in private between two consenting adults, those acts, however indecent or repugnant or immoral, should remain a matter for their own private consciences and not be a matter bringing into play the Criminal Code of Canada. The conduct contemplated in this clause, homosexual acts between consenting adults in private, is repugnant to most of us. It is repugnant to the great majority of the people of Canada. I resent very much the argument of some members of the opposition that this legalizes homosexuality.

Mr. Lambert (Edmonton West): Of course it does.

Mr. Turner (Ottawa-Carleton): It surely does nothing of the kind. The clause does not endorse such acts. It does not promote such acts. It does not advocate such acts. It does not popularize such acts. It does not even legalize this kind of conduct.

Mr. Lambert (Edmonton West): It legalizes it. Of course it does.

Mr. Stanfield: Would the minister permit a question for the sake of elucidation? I understood him to say the attitude of the government was to leave these acts entirely within the realm of private judgment. If this is so, how can such conduct possibly be illegal?

Mr. Turner (Ottawa-Carleton): With the greatest respect, I think that is a bit of sophistry. The Leader of the Opposition (Mr. Stanfield) was not present throughout the debate yesterday, although I presume he read *Hansard*. The argument put forward by some members of the opposition was that the effect of this clause was to legalize or condone a standard of conduct which to most of us is physically and morally repugnant. It does nothing of the kind. It merely lifts the stigma of the criminal law from a certain type of conduct which we consider to be private conduct which ought not to be within the purview of the criminal law. That is the purpose of the clause.