

Criminal Code

Mr. Dinsdale: Mr. Speaker, I rise on a question of privilege, If the hon. gentleman will go the library he will find that I have read most extensively, and I do not think he should be the adjudicator of my reading capacity.

Mr. Lewis: What you said in your speech did not show it.

Mr. Gilbert: I would be very happy to give the hon. member a copy of the Wolfenden report and also obtain for him a copy of the speech of the Archbishop of Canterbury in the House of Lords. I am sure that after reading them he would be intellectually and spiritually persuaded. With regard to the wisdom of this change, the problem of homosexuality is a very difficult one. If you read the Wolfenden report you will see that it indicates the difficulties. In that case 12 men and 3 women of extensive backgrounds, with expertise in different fields, studied the problem in depth and as a result brought forth the Wolfenden report. It would be fair to say that the amendment we are now considering, new section 149A, is a result of the study made which resulted in the Wolfenden report. It also brought about the Sexual Offences Act in Great Britain in 1966, which embraces the main recommendations of the Wolfenden report.

If one reads the Wolfenden report one soon learns that there is a difference between homosexual offences such as are contained in sections 147, 148 and 149 of the Criminal Code, concerning buggery, bestiality, indecent assault of a male person and acts of gross indecency, and the definition of homosexuality. The definition of homosexuality as set forth in the Wolfenden report is that it is a sexual propensity for persons of one's own sex. If this is so, homosexuality is a state or condition and as such does not come within the purview of the criminal law.

I have heard a great deal of comment on whether homosexuality is a mental disease. Again, the Wolfenden report went into this problem in depth and said it did not satisfy the definition of mental disease; it did not comply with that definition on the basis of an abnormal symptom caused by a pathological condition, in turn caused by some factor called "the cause", each link in this causal chain being understood as something necessarily antecedent to the next. If homosexuality were a disease of the mind, must we treat these people as criminals?

[Mr. Gilbert.]

Mr. Dinsdale: No. Let us have some positive legislation.

Mr. Gilbert: Do we treat people suffering from tuberculosis, cancer or leprosy as such? I agree with the hon. member for Brandon-Souris that psychiatric help is a form of treatment. But if he would read the Wolfenden report he would see that it indicates that many of these people are not anxious to have psychiatric help and that very little success has been obtained through psychotherapy in this field. This indicates that we are still groping in the dark with regard to the medical treatment of this major problem.

The question arises: How many persons are homosexual? I think it is fair to quote Dr. Kinsey, who made an extensive study of this problem in the United States. He said that 4 per cent of adult, white males are exclusively homosexual throughout their lives after becoming adolescent. He also said that 10 per cent of all adult, white males are more or less homosexual for at least three years between the ages of 16 and 65, and that 37 per cent of the total male population have had some overt homosexual experience, to the point of orgasm, between adolescence and old age. It was pointed out that in Sweden 1 per cent are exclusively homosexual and 4 per cent have homosexual and heterosexual impulses. When I heard the hon. member for Brandon-Souris say that we are bringing in the conduct of skid row, it indicated his lack of knowledge on this subject.

Mr. Dinsdale: I said "the values".

Mr. Gilbert: I will accept the interjection of the hon. member. These figures obtained from Sweden and the report of Dr. Kinsey indicate the extent of the problem. With regard to the question of the moral issue—and we have heard a great deal about the moral problem—concerning homosexuality, I note that the opposition is mostly on the basis of repugnance and revulsion rather than on a valid basis for bringing into the criminal law private sexual behaviour of this kind.

We have heard a great deal about how civilization is becoming demoralized and decayed. It is said homosexuality has had a great impact on the health of our society. The minister quoted some of the Wolfenden report to reject that argument. The Wolfenden committee found there was no evidence to substantiate the contention that homosexuality is bringing about the demoralization and decadence of our society. It is fair to say that you cannot refer to other civilizations which are