

*Criminal Code*

**Mr. Lambert (Edmonton West):** When something ceases to be illegal it is then legal.

**Mr. Turner (Ottawa-Carleton):** It may well be, and I tend to think so myself, that homosexual acts are a cause for medical attention or psychiatric attention. But when carried out in private, and when they do not affect the morals of a minor or corrupt a minor, they should remain outside the criminal law. The criminal law will not cure them. The causes of this kind of conduct are far more subtle.

**Mr. Lambert (Edmonton West):** What about the ages 17 and 18? This is when doctors are necessary, and it is criminal then.

**Mr. Valade:** May I be allowed to ask a question, Mr. Speaker?

**Mr. Turner (Ottawa-Carleton):** I should be glad to entertain the hon. member's question when I am finished. I am sure he will be able to retain it in his very sophisticated mind until the end of what I have to say.

**Mr. Knowles (Winnipeg North Centre):** You are just a pair of consenting adults.

**Mr. Turner (Ottawa-Carleton):** The hon. member was a member of the committee and he knows we threshed this subject out fairly thoroughly. I recognize his interest in this subject from the point of view of the criminal law and I shall be glad to entertain his question a little later.

It is our view that it is not the purpose of the criminal law to probe into the private lives of individuals where the public order is not involved. Here I come to another argument, and in this I believe a good many members of the house will support me. A penal law is not a good law unless it is an enforceable law. A law which is not enforceable is not a good law. And it is our judgment that a law against the kind of conduct contemplated in clause 7, acts between consenting adults in private, is unenforceable, indeed, that attempting to police this type of conduct by probing into the private lives of people would bring the whole system of law into contempt and disrepute and thereby contribute to making the law less credible. I believe that public order would be better served by the amendment to the code which we propose.

**Mr. Lambert (Edmonton West):** Would you pry into the 20 year-olds?

[Mr. Turner (Ottawa-Carleton).]

[Translation]

**Mr. Turner (Ottawa-Carleton):** Mr. Speaker, I know the members of the Ralliement Cr ditiste and I am sure they were sincere when they quoted from the Old and the New Testament. May I tell them, however, that I have here, to back my opinion a text which says that a law which cannot be enforced is not a good law.

Therefore, may I quote, for their guidance, an excerpt from the Supplement to the Summa Theologica, by Saint Thomas Aquinas. I quote from the answer to the first objection, question 67, article III.

He that is empowered to prohibit (i.e. to make laws) does not sin if he does not expect his prohibition to be a source of redress or improvement, but, on the contrary, deems that this prohibition will give birth to more evil or disorder.

Therefore, I believe that even on the ground of theology, very serious and reliable authorities have backed up the opinion that if you want a law to be complied with it should be officially promulgated.

[English]

I wish to comment briefly on certain remarks made during the debate. I shall not trace them to individual members because I would prefer to deal with the question objectively.

• (3:20 p.m.)

The suggestion was made that taking away the sting of the criminal law from this type of conduct between consenting adults in private would menace the health of society, that it would have a damaging effect on family life. This concerns me very deeply. I want to cite for the consideration of the house some of the conclusions, reached after a good deal of study, by the Wolfenden commission in the United Kingdom which, as the house will recall, was composed of 12 men and three women under the chairmanship of Sir John Wolfenden and reported on similar matters to the House of Commons at Westminster.

After a very thorough investigation and inquiry the commission rejected each of these arguments. The committee found there was—

—no evidence to support the view that homosexual activity is a cause of the demoralization and decay of civilizations, and that therefore unless we wish to see our nation degenerate and decay such conduct must be stopped by every possible means.

I am using the committee's own words. The report goes on, and I quote again:

—we cannot feel it right to frame the laws which should govern this country in the present age by