

# glen

EQUALITY

RESPECT

PROGRESS



Dáil and Seanad Debates on  
**Decriminalisation of Homosexuality**  
June 1993



Cover photo, courtesy of GCN,  
shows Kieran Rose, Chris Robson,  
Phil Moore and Suzy Byrne outside  
the Dáil after the Bill passed.

**JUNE 2013**

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# INTRODUCTION

The passing of the Bill to decriminalise homosexuality in June 1993 marked a watershed in the lives of lesbian and gay people in Ireland. It was perhaps the most important step in the liberation of gay people and led to new generations of lesbian and gay people able to live their lives more openly. It was the building block on which further legislative progress became possible, which rapidly followed, with Unfair Dismissals, Employment Equality and Equal Status protections on the grounds of sexual orientation being enacted from 1993 to 2000. That progress continued with Civil Partnership in 2010 and now very significant moves towards marriage and Constitutional equality for lesbian and gay couples and families.

To mark the 20<sup>th</sup> anniversary of the passage of the Bill in June 1993, we have reproduced here extracts from some of the speeches from the Dáil and Seanad debates.

The Bill had a long gestation. Senator David Norris had taken a case challenging the constitutionality of the criminalisation of homosexuality through the Irish courts, where the case was defeated at the Supreme Court in 1983. Senator Norris then took the case to the European Court of Human Rights, where his lead counsel was Mary Robinson, and in 1988 the Court found that Ireland's laws in this area were in breach of the European Convention on Human Rights. The Irish Government had to change the law.

The Government asked the Law Reform Commission to examine various models of legislation and they concluded in September 1990 that 'the same legal regime should obtain for consensual homosexual activity as for heterosexual and that, in particular, no case has been established that the age of consent (seventeen years) should be any different'. This firmly established the principle that any change in the law should be on the basis of equality.

However, five years on from the judgement in the European Court the laws still hadn't changed, despite the work of, amongst others, GLEN, the ICCL and the Campaign for Equality. A new Fianna Fáil/Labour Government was formed at the beginning of 1993 with Mervyn Taylor as the Minister for Equality and Law Reform and Máire Geoghegan-Quinn as Minister for Justice. She announced that gay law reform was an early priority for her.<sup>1</sup>

Minister Geoghegan-Quinn brought a Bill before the Dáil in June 1993 which removed the 1861 Victorian laws criminalising homosexuality and which did so on the basis of an equal age of consent. The Bill passed the Dáil on 24<sup>th</sup> June 1993, and the Seanad on 30<sup>th</sup> June 1993.

Addressing the delighted crowd at the Dublin Pride March at the Central Bank on the following day, GLEN Co-Chair Kieran Rose commented:

We all had a dream that one balmy summers day we would celebrate being full and equal citizens of this Irish Republic. This is the day. It is a victory for all those struggling for equality in this country. These reforms are a great achievement for Irish society and for its lesbian and gay community; so we can stand here today proud to be Irish and proud to be lesbian and gay.

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<sup>1</sup> For further details of the campaign for gay law reform see *The Anatomy of a Campaign* by Christopher Robson in *Lesbian and Gay Visions of Ireland* eds Íde O'Carroll and Eoin Collins, Cassell, 1995 or *Diverse Communities: The Evolution of Lesbian and Gay Politics in Ireland*, by Kieran Rose, Cork University Press, 1994

## **Reflections of GLEN Co-Chairs in 1993.**

### **Kieran Rose:**

“It’s amazing that a whole generation of people have grown up without ever feeling criminalised.”

When the European Court of Human Rights made its decision in 1988 there was some sort of feeling with the activists that this was now moving from the arena of courtrooms and barristers, which is a very refined and specialised area, to becoming about a campaign to bring law reform in. We discovered two years later that the government had been promising the European Court every six months that they were going to introduce law reform, while they were saying something different to the Irish people. It became a big news item and put our case way up the legal agenda.

It was a fantastically hectic time. I’d be at work and then we’d be running over to meet a minister, to lobby them, and then I’d be back at work again. When the bill was introduced in the Dáil, it was a very celebratory time. There was a whole group of us up in the gallery when the first stages of the bill were passed and it was very moving. Phil Moore led a round of applause and Ruairí Quinn turned around and gave us a clenched fist salute.

We had told all the media, including RTÉ that we were doing a photo-call, and of course RTÉ didn’t turn up. But Charlie Bird happened to be outside the Dáil with a camera crew to film something else, so I went over and asked if they’d like to film us. Although they were bemused, or amused, they used a few seconds of filming time to record it. That clip has been used ever since, in programmes like ‘Reeling in the Years’.

Progress has accelerated in recent years. We have powerful equality legislation that covers both the workplace and services; a Refugee Act that explicitly includes sexual orientation. Marriage-like Civil Partnership was enacted and since 2011 thousands of people of all ages and in every county have signed up to these extensive rights and obligations, and then had great wedding celebrations in the company of families and friends. The momentum for Civil Marriage is increasing with the recent powerful endorsement of the Constitutional Convention. We have three ‘out’ T.D.s and two Senators. There has been substantial progress in areas such as employment, education and health. We now have an impressive array of cultural, sporting, professional and community groups; throughout the country.

A reflection and a generator of all this progress is that lesbians and gay men are increasingly self-confident about their place in Irish society; increasingly empowered about their right to be ‘out’ in whatever context. The symbol of the transformation that has taken place is the massive increase in the numbers taking part in the Pride Parade; from a few hundred to many thousands.

Of course we have a good way to go yet; there is still an unacceptable level of

prejudice and discrimination, of bullying, harassment, and violence. We need the promised parenting legislation brought in as soon as possible. I have often thought that we will know we have finally arrived, when we see a lesbian or a gay couple walking down the street, and it will be, unremarkable.

We have come a long way; we have much to celebrate and should do so. For many of us though, marking this progress is bitter-sweet; Christopher Robson, our great comrade in this journey over many years, who made such a powerful and sustained contribution to the transformation we brought about is not here to celebrate with us, Chris passed away earlier this year.

Gay Ireland has changed phenomenally since then. It's amazing that a whole generation of people have grown up without ever feeling criminalised. There are obviously areas that haven't changed much. You could live in a bubble in Dublin and think that it's the world, but it's not. Still, having said that, it used to be a big problem for people to get information about being gay outside the city, and now it's totally taken for granted that you'll be able to pick up a gay magazine in a rural or suburban area. There's a huge sense of achievement about what we did. It was very creative and so much work went into it. Now it's time for younger people to get angry and strive to change things.

**Kieran Rose**

*GLEN Chair, (from interview in GCN June 2013)*



## Suzy Byrne

The campaign for the decriminalisation of homosexuality and the introduction of an equal age of consent is one which has received little analysis in the past 20 years. It had no budget, no staff and no large public campaign of popular support. It was achieved by borrowed photocopiers, carefully crafted letters, meetings in coffee shops, direct lobbying of politicians and gentle convincing. Other groups in the community supported a limited mandate given to GLEN at the time and GLEN in turn reached out to trade union and other political and social movements for support. There were very few willing to speak publicly about their criminalisation for fear of losing their jobs, families and threats to their safety.

By the time the legislation was published and introduced to the Dáil for debate all the hard work had been done and there was little for GLEN to be concerned about apart from whether there would actually be a vote on the legislation.

While many will rightly point to the leadership of Máire Geoghean Quinn on the issue, the speech I will most remember from attending the debates is that of Sean Power, a Meath FF TD who spoke about the 'need to love and be loved.' It was at that stage I wiped tears from my eyes.

I think it is essential that we learn from our past and hope that young people will have the opportunity to read and learn from the campaign and debates and precedence that they set for public policy since

Without the decriminalisation legislation and most crucially an equal age of consent subsequent campaigns for the introduction of the Unfair Dismissals Act, Domestic Violence Protections, statutory and non-statutory funding for health and social services, Equality Legislation and partnership recognition would have taken much longer and been extraordinarily difficult.

I remember the day after the Dáil voted to introduce equality and decriminalise homosexual acts in 1993 GLEN hosted a technical seminar on what might form employment and non-employment equality legislation in Ireland for all groups, nothing special for ourselves but protection for all.

## **Christopher Robson:**

“We took on the job of levelling the pitch, and made it playable, if not entirely level. But there’s still a game to be played.”

It’s what I’ve done with my life, I reckon. The original manifesto of the Gay and Lesbian Equality Network (GLEN), which I drafted, said that we wanted law reform only on the basis of absolute equality. After he won his case in European Court of Human Rights, David Norris gave us his backing, and with what I always thought was a lot of courage stood back and allowed GLEN to do a lot of the work. When the Strasbourg judgement came we applied pressure mostly through meetings with all of the political parties, and all the churches, trying to get them to say that making us criminals was not right. Most of the religious institutions said they were in favour of what we were doing.

The Strasbourg judgement was the engine that fuelled all of this. In 1992, on its 5th anniversary we had a sort of sardonic birthday celebration outside the Dáil with a huge big cake and a press release about the dithering of the government over the issue.

Around Christmas of that year a new government was formed between Fianna Fáil and Labour. We realised this was our big chance. We were extremely lucky that the Minister for Justice, Máire Geoghegan Quinn, was committed to full law reform. Her own department leaked members against her, but she wasn’t having any of it. After one of our meetings she went on to the lunchtime news and spoke as if she had just joined GLEN, she had got her stuff so clear. She said she was going to introduce a bill for law reform very early.

It was a wildly exciting time. When finally everything came through, it was like playing in the All Ireland Final on the winning side. There were some very, very moving contributions to the Dáil debate on the day the bill was passed. The following Saturday, when the Pride march featured the chant, ‘What did we want? Equality! When did we get it? Yesterday!’ was one of the happiest days of my life. It was a sunny, exhilarating, glorious day.

I’m still with GLEN. We worked on all the various reforms since then and I’m working with David Norris on a draft bill for partnership legislation. All this time I’ve been a reasonably senior Civil Servant and continued to do my job reasonably well, but my heart has been in the other work.

I think Ireland’s changed beyond all comprehension. A couple of things have got worse. The situation in schools is terrible, partly because people are becoming sexualised at a much earlier age. There was a recent report on bullying against boys in Irish schools and 100% of the victims were called ‘queer’ or ‘gay’ or ‘faggot’. That’s how bad it’s become.

But as people come into society, there’s far less hassle. The overwhelming sense is, of course, that some sort of partnership legislation should be coming in. All of the political parties are in favour of it in one form or another. Even

Fianna Fáil recognises that some sort of partnership will eventually come through.

We took on the job of levelling the playing pitch, and made it playable, if not entirely level. But there's still a game to be played. We've had a couple of singers, a couple of people in the media and arts coming out, but it's astounding when you think that there are now something like 25 out gay and lesbian MPs, including some Ministers, in the British House of Commons, and here only David Norris is working in the government.

**Christopher Robson, RIP**

*GLEN Co-Founder*

*January 1941 – March 2013*

*Extract from an interview with GCN on 10<sup>th</sup> anniversary of decriminalisation in 2003.*

# IRISH TIMES OPINION COLUMN BY MARY HOLLAND, 1<sup>ST</sup> JULY 1993.

## **They're here, they're queer – and now they're legal**

One would need a heart of stone not to have been moved by the great waves of happiness that surged through the centre of Dublin last Saturday afternoon as Irish gays and lesbians took to the streets. They threw pink carnations into the crowd, walked hand in hand and chanted "We're here, we're queer, we're legal".

Men and women, many of them veterans of the campaign, wore foolish smiles, shook their heads and asked again and again: "How did this happen? How did we get it right this time?" What they meant was: how did the Irish Government decide to deal with a sexual issue generously, openly, and without the usual grudging hypocrisy?

I wish Máire Geoghegan-Quinn had been there to see it and to hear the great shouts of gratitude that went up whenever her name was mentioned at the rally outside the Central Bank. The echo should be with her if, as she indicated in the Dáil, she faces criticism in her constituency. For, as well as exuberance and delight, there was an enormous, palpable sense of relief. Phil Moore of Parents' Inquiry, who has spoken so well of the emotions experienced by parents whose children tell them that they are gay, told me: "It means young people won't have to live in the shadow of criminality. That's the important thing. The Minister is a mother herself. She understood what we were talking about."

It brought home very vividly the disabling and unnecessary burden for so many of our people who have had to bear while we argued about the need for change. We salved our consciousness for so long by saying that, after all, homosexuals weren't prosecuted in Ireland and that, in many ways, they were treated rather well. We were guilty of a terrible lack of imagination about how this must have felt to gay people and their families. It is this quality, as well as political courage, which Mrs Geoghegan-Quinn brought to the task of initiating the necessary legislation.

Speaking on *Saturday View* a few weeks ago, she described her meeting with several mothers who had talked to her about the shock of discovering that their sons were gay: "But as the end of the day, after that very painful and traumatic process, they suddenly realised that this was a fact they had to deal with. They couldn't turn off the tap of love that they had given a 17-year-old or 18-year-old child for all those years and say 'Just because you now tell me that you're gay, I'm not going to love you anymore, I don't want you anymore.'"

Of course a change in the law won't change attitudes overnight, or eliminate the prejudice one still hears expressed, as much at dinner tables in Dublin 4 as in supposedly more backward places. Many gay people, particularly if they employed in an institution where the Catholic Church wields influence, will

still be fearful for their jobs and for the distress they may cause their families if they “come out” publicly.

But the law is the great persuader. Certain things will change, at once. Universities will no longer be able to refuse to register gay and lesbian societies in their student unions. Newspapers won’t be able to cite the legal ban on homosexuality as a reason for refusing advertisements for gay counselling services. Ditto hotels when a gay social club wants to book a room for a function. More importantly, gay people, particularly the young, now know that the law is on their side.

And, at risk of sounding like Pollyanna, it is just possible that attitudes are changing anyway, that very many people share Máire Geoghegan-Quinn’s ability to look at an issue like this with imagination and sympathy. In Monday’s paper Ed O’Loughlin reported that people in O’Connell Street last Saturday clapped as the more extravagant marchers passed by Clery’s front windows.

It will be said this was Dublin and that the reaction in the capital on a sunny Saturday afternoon does not reflect the reality of entrenched prejudice in the State as a whole. I, too, was very struck by the behaviour of the crowds of shoppers who had come to town last weekend of the sales.

Having been in the United States for St. Patrick’s Day this year and watched as people spat and threw empty beer cans at the young leaders of the Irish Lesbian and Gay Organisation in New York, I was quite fearful that an ugly incident or some abusive jeers would ruin the atmosphere of last Saturday’s march. Instead middle-aged women, laden with shopping bags, smiled indulgently and caught the pink carnations thrown their way.

At the rally after the march Kieran Rose told a wildly cheering audience: “Today we came here, proud to be Irish citizens and proud to be lesbians and gays. We really believe that Irish people are progressive, that Irish people do support the lesbian and gay community, do support human rights and equality and have no time at all for bigotry.” As I looked at the smiling faces in the crowd, his confidence in Irish people and his optimism for the future seemed entirely appropriate. For this writer, who has sometimes reported on rather less progressive attitudes in Irish society (and even been on the receiving end of them), it is important to put that on the record.

# CRIMINAL LAW (SEXUAL OFFENCES) BILL 1993 – DÁIL SECOND STAGE DEBATES

The Government Published the Criminal Law (Sexual Offences) Bill in June 1993 (Bill 20 of 1993). This is the first stage in the Oireachtas processing of a bill.

The Second Stage of the Bill, where the Dáil considers the Bill for the first time began on 23<sup>rd</sup> June 1993.

Extracts from the second stage debates texts have been reproduced here, taken from Official record on the Oireachtas website and can be viewed in full at:

<http://debates.oireachtas.ie/dail/1993/06/23/00021.asp>



**Máire Geoghegan-Quinn, T.D.**  
Minister for Justice  
(Fianna Fáil)

“The primary purpose of this Bill, which forms part of a comprehensive programme of reform of the criminal law which I have under way at present, is to decriminalise sexual activity between consenting mature males...

... While it is the case that the main sections of the Bill arise against a background of the European Court decision in the Norris case, it would be a pity to use that judgment as the sole pretext for the action we are now taking so as to avoid facing up to the issues themselves.

What we are concerned with fundamentally in this Bill is a necessary development of human rights.

We are seeking to end that form of discrimination which says that those whose nature is to express themselves sexually in their personal relationships, as consenting adults, in a way which others disapprove of or feel uneasy about, must suffer the sanctions of the criminal law.

We are saying in 1993, over 130 years since that section of criminal law was enacted, that it is time we brought this form of human rights limitation to an end.

We are recognising that we are in an era in which values are being examined and questioned and that it is no more than our duty as legislators to show that we appreciate what is happening by dismantling a law which reflects the values of another time.

That process of change is not easy and, understandably, many people worry that the traditional values which they hold so dear, and many of which are fundamentally sound, are under siege from emerging modern realities. But, of course, it is not a matter of laying siege to all the old certainties, nor is it a matter of jettisoning sound values simply to run with a current tide of demand, which may or may not be a majority demand. It is, rather, a matter of closely looking at values and asking ourselves whether it is necessary, or right, that they be propped up for the comfort of the majority by applying discriminatory and unnecessary laws to a minority, any minority.

As a people we have proved our ability to adopt a balanced and mature approach in dealing with complex social issues.

In this context I am particularly pleased to note that, by and large, the public debate which has taken place in relation to the area covered by the Bill has been marked by a lack of stridency and by a respect for the sincerity of the views held by others.

Because some of the issues raised by this Bill are ones on which many people have deeply and sincerely held opposing views, it is perhaps inevitable that in the public debate the reality of what the Bill actually proposes to do can sometimes be lost sight of in the context of wider issues which tend to be raised. For this reason it is important to emphasise that the House is not being asked to take a view as to whether sexual behaviour of the kind dealt with in the main sections of the Bill should be regarded as morally or socially acceptable. Instead, what is simply at issue is whether it is right in this day and age that the full force and sanctions of the criminal law should be available in relation to such forms of sexual behaviour.

Majority values do not require that kind of support and I believe this is something that each of us knows instinctively. We know in ourselves also that values which are truly worthwhile in themselves are strengthened – not weakened – when we remove forms of apparent support which ignore the rights of others.

In other areas of public concern and debate in this country we have come to appreciate the need to recognise, respect and value difference. This House needs no reminding of the tragedy which ensues when difference is deprived the right of expression and suppressed.

Returning specifically to the theme of the Bill, does anybody believe that if the laws from the last century which we are now seeking to repeal did not in fact exist, we would now be seriously suggesting that they would be enacted? How can we reconcile criminal sanctions in this area with the fact that there is a whole range of other private, consenting behaviour between adults which may be regarded by many as wrong but in which the criminal law has no part to play?

Some parents, in particular, may be uncomfortable about what is being proposed and I fully understand what gives rise to that discomfort. That is why it is so important that we understand precisely what is being proposed. It is the removal of discrimination in the case of consenting adults in respect of their sexuality, not the removal of protection in the case of children and other vulnerable members of society. In fact, the Bill seeks to protect the vulnerable where protection did not exist heretofore.

I know too that there are parents who will know what it means in practice to have a child whose very nature it is to be homosexual. Very few of them would, I believe, be likely to regard it as helpful if in later life one of their own children was an active homosexual, liable to imprisonment – under the present law up to life imprisonment – for giving expression to his sexual orientation.

I do not believe that it is any answer to say that in practice these laws are rarely if ever implemented and we would be best to leave well enough alone. Such an approach would be dishonest, could bring the law generally into disrepute and, it seems to me, would be grossly and gratuitously offensive to those who happen to be homosexual. Genuine tolerance is not achieved by the turning of a blind eye. The social acceptability of homosexuality is not something which by our laws we can decree; the hurt which homosexuals feel at their treatment as outcasts by some members of the community is not something which we can dispel by the use of some legislative magic wand.

What we can do under the terms of this Bill is leave those of homosexual orientation free to come to terms with their lives and express themselves in personal relationships without the fear of being branded and being punished as criminals...

... Overall the Bill is a balanced, measured and enlightened approach to the sensitive and difficult issues with which it deals. It is right that we should take the opportunity, now, of rolling back over 130 years of legislative prohibition which is discriminatory, which reflects an inadequate understanding of the human condition and which we should, rightly, see as an impediment, not a prop, to the maintenance and development of sound social values and norms. I am pleased, therefore, to commend the Bill to the House."





**Michael McDowell, T.D.**  
(Progressive Democrats)

“The 1983 decision of the Supreme Court in the Norris case was unfortunate. However, times have changed and we have moved on a bit since then. In so far as it purports to take away the stigma attached to homosexuals in our law, I very much welcome this Bill on behalf of the Progressive Democrats. This Bill proposes to change our criminal law. I note in particular the remarks made by some members of the Hierarchy about the criminal law and its function. It was suggested that laws in some sense should reflect models of behaviour. Are the people who put forward that view of the criminal law really aware of the facts? I have probably practised criminal law more than any other Member of the House. During my 19 years as a practising barrister I have never come across an occasion on which someone was prosecuted for gross indecency and I have seen cases of buggery charged in the courts on infrequent occasions only.

The stigma of criminality prevented many people from playing an active role in this community, prevented people from being appointed to the bench, prevented people from pursuing a life in politics and prevented people from playing a role in both professional organisations and their communities. That stigma of criminality existed as a potential blackmailer’s charter on those individuals.

It was deeply hypocritical of the Irish State to effectively suspend the prosecution of homosexual offences while at the same time leave the crime on our Statute Book. It was deeply hypocritical of this State to leave on our Statute Book laws which we had neither the will nor intention to apply, as they stigmatised a section of our community whom we no longer believed deserved such a stigma...

... We cannot have different standards in different areas. If we do not propose to punish homosexual males for acts in which they engage in private, then it should not be an offence on our Statute Book. If we do not propose to send them to prison we should not have the power to send them to prison on our Statute Book. The explanatory memorandum states that the primary purpose of the Bill is to decriminalise buggery between adult persons. That is an outrageous proposition. That is not what the people of Ireland asked for, and

it is not the primary purpose of the Bill. The primary purpose of the Bill is not connected with the crime of buggery; it is connected with the homosexual orientation of certain people. With the greatest of respect, buggery is a minor incident in that. The issue is whether people with a male homosexual orientation are committing crimes when they engage in sexual activities. This Bill is welcome in so far as it finally puts an end to that stigma. However, I am afraid that that is where my praise for this Bill must end."



**Mary Harney, T.D.**  
(Progressive Democrats)

"This Bill is about human rights, but in that regard it is schizophrenic. It adopts a very positive and liberal approach to homosexuality. I support the provisions in this Bill in relation to homosexuality.

It is about freedom, tolerating difference and respecting the rights of other consenting adults. As Daniel O'Connell once said: "By extending freedoms to others you enhance and not diminish your own".

Deputy McGrath, in particular, spoke about homosexuals being murdered and attacked and the high incidence of suicide in this group. That is probably the case and results from the indifference, intolerance and prejudice with which they have to live. I believe it would be inappropriate to change the age of consent from 17 to 18 for this reason: I do not think young men should have to begin their adult life as criminals. We should have gender-neutral legislation and the age of consent that applies to heterosexuals should apply to homosexuals... I believe that in matters to do with private morality the law does not affect how people behave...

... Homosexuality has been a criminal offence under the law of this country and that has not prevented us from having tens of thousands of homosexuals in our society. What this law does is facilitate behaviour: it respects behaviour and protects the common good and allows consenting adults in the freedom of their own home to exercise choice in pursuing their sexuality... It would be wrong if we were in any sense to seek to alter the age of consent... Young homosexual men have a great many things to come to terms with as the majority in our society are heterosexual and for them it is often difficult to come to terms with the fact that they are different. To try to make that more difficult would be wrong..... We have to realise that throughout society – whether in the Church, politics or whatever profession – homosexual

behaviour is not limited to a particular group, class or profession. It would be narrow-minded to take that view.

Rather than make it more difficult for those whose professions may have suffered, whose chances of promotion and family life may have suffered, we should all put ourselves in the position of a sister, a parent or colleague of a homosexual person and ask whether we would want them to be declared criminals and put in jail.

Either we want to have laws that operate and are effective or we want the law to recognise reality. For many years the law in relation to these matters has not been put into effect. On the contrary, we have turned a blind eye to the law and laws that are not enforced are not respected. I hope this debate, short and all as it is will be a further maturing of the legislative process. Hopefully it will allow us to be more tolerant because legislation in itself will not change social attitudes, that is a much longer and more difficult process. It can be done in a number of ways and obviously the legislation plays a part in that it removes prejudice but certainly is not the end of the story.



**Eamon Gilmore, T.D.**  
(Democratic Left)

“The provisions of the Offences Against the Person Act, 1861, dealing with homosexual activities are a relic of the Victorian era and should have no place in a modern society. The sexual activities of consenting adults in the privacy of their home are a matter for the people concerned and should not be the business of the Dáil, the Garda or anybody else, including the peeping Toms of the self-appointed moral police from whom we hear a great deal nowadays. Whether one approves or disapproves of the particular sexual practices of people is not the issue. Disapproval is not a sufficient reason for criminalising those whose sexual orientation differs from that of the majority.

...The legislative position of homosexuals here will now be far more acceptable than in the United Kingdom. The question in regard to the age of consent will always be difficult, but the Minister was correct in deciding that the proper approach was not to differentiate between the homosexual and the heterosexual and to set the age limit at 17, as recommended by the Law Reform Commission.”

“The passage of this Bill through the House will be a tribute to those members of the gay and lesbian community who have courageously campaigned for reforms in this area over many years and none more so than our fellow Oireachtas Member, Senator Norris...

... We hear that nobody is brought before the courts, therefore there is no need to decriminalise it. What does that mean? Are we saying that we have legislation which is inoperable but because it is on the Statute Book we can continue to give the lie publicly and pretend that since homosexual activity is criminalised and no prosecutions take place there are no homosexuals in Ireland? Every child in this country has been familiarised with *The Ballad of Reading Gaol* and the sorry story, almost 100 years ago, of one of this country's finest literary talents who was jailed for homosexual activity. That story is told to children pursuing leaving certificate courses year in, year out in this country. I do not recall that it has ever been suggested that the authorities 100 years ago were right to jail Oscar Wilde for homosexual activities. I am not aware either that very many school children are made aware that it would still, at least in theory, be possible for the same thing to happen all over again. I believe that this Bill is about repealing the Victorian legislation which put Oscar Wilde in jail....

This legislation in relation to homosexuality is attempting to create the legislative framework for a tolerant society.”



**Proinsias De Rossa, T.D.**  
(Democratic Left)

“I have pressed for the decriminalisation of homosexual acts for some considerable time in this House. I agree with what the Minister proposes in relation to that matter in this Bill. As other Deputies have said, I welcome the fact that the Minister has shown the courage to do that. It should not be forgotten that the Labour Party has had a role in regard to this matter. I have been one of its most strident critics since it went into Government, but it deserves credit for ensuring that this matter is on the agenda, and other Members in the Fianna Fáil Party have ensured it is on the agenda. The Bill demonstrates that we are a maturing democracy. However, we have a considerable distance to go and this Bill is a sign of hope for the future....

... As democrats we must ensure that every citizen feels part of our society and does not feel excluded because of their colour, gender, sexuality or because they are poor or have a mental or physical handicap.

We have an obligation to ensure that every citizen feels part of our society and is not discriminated against. Democracy cannot simply be defined as the rule of the majority. It must have other facets. A genuine democracy has many other facets, not least of which is tolerance, tolerance of different points of view and tolerance of difference. It must also specifically ensure that we defend the human and civil rights of minorities; otherwise it is not democracy.

It is in that context that this Bill must be viewed. There has been much debate in this House with regard to conscience. I would argue that conscience should be left outside the door of this House or outside the door of business or trade unions. Conscience is an important part of our society and without it society would be ungovernable. However, one's conscience must be informed by a democratic principle when one is a legislator."



**Mervyn Taylor, T.D.**

Minister for Equality and Law Reform  
(The Labour Party)

"Tonight's debate engages this House in a decision of far reaching importance. In its decision on this Bill, the House faces the challenge of meeting Ireland's international human rights commitments, and of giving effect to the principle of the equality of every citizen, while at the same time recognising, and hopefully answering, the genuinely held difficulties which have been expressed by some people about this important law reform measure.

This Bill, which has been carefully prepared by my colleague, the Minister for Justice, represents a sincere and heartfelt expression by the Government of its commitment to the principle of equality, and to the right of each individual to participate fully in society...

It would be appropriate on this occasion to pay tribute briefly to the outstanding courage and dedication of Senator Norris, who was responsible for initiating the litigation which, in a sense, gave rise to this Bill, and for seeing the issue through to its conclusion. It is important that we recognise the sense of passion and justice which enabled him to pursue what was often a very lonely campaign for most of the past 20 years.

However, the most important aspect of this Bill is not that it will satisfy the judgment of the European Court of Human Rights. The Government could have chosen to produce a narrow, minimalist Bill, to do the bare minimum necessary to fulfil the judgment, as the British Government chose to do when the European Court of Human Rights ruled against them in the *Dudgeon* case.

Instead, the Government has chosen to give full effect to the principle of the equal right of every citizen, regardless of sexual orientation, to express their sexuality and to pursue loving relationships. With its common age of consent and its refusal to discriminate above that age on grounds of sex or marital status, this Bill is a truly modern, liberating and decisive proposal to reform the law in a spirit of equality.

For those who have genuine difficulties with the principle of the Bill, it is important to recall that what is proposed is the enabling of persons in the gay community to pursue loving relationships.

What could be more important, for us as legislators, than to create a climate and a space in which two people who have chosen each other can express and share their love?

For many people, of course, the idea of recognition by the State of gay and lesbian relationships is unorthodox, surprising, even shocking perhaps. Some people will approach these questions from a traditional religious or moral standpoint and it is important to recognise the sensitivities involved and not to cause unnecessary offence to people who hold a different view from that of the Government.

However, a recognition of the wide spectrum of opinions that can exist around these difficult issues of personal and private behaviour must not dilute the overriding responsibility to promote and protect the dignity and freedom of the individual. As my colleague, the Minister for Justice, Deputy Geoghegan-Quinn, said in a different but related context in this House on 26 March 1993:

Our legal provisions must never simply seek to mop up what goes wrong; they must seek to empower and enable. Law should control criminal activity. It should never be used to constrain potential or put a limit to human happiness.

For too long, since 1861, the criminal law has unfortunately sought to constrain the potential of members of the gay community and put a limit to their human happiness. As we throw off the outdated legislation of another age tonight, this House is taking an important and decisive step towards an Ireland where every citizen is entitled to the equal protection of the laws in the fullest sense of that expression. We are taking another important step towards a society where individuals have an equal liberty to pursue their loving relationships and personal emotional projects and commitments, in a quiet, private space, free from the hostile scrutiny of the law. Tonight's work is as important as that."



**Séan Power, T.D..**  
(Fianna Fáil)

"The Bill deals with an issue that has engendered much debate over the past few years. Indeed, many people will feel a certain amount of relief that the issue will shortly be removed from the agenda. The very word homosexual is one that people are embarrassed to use but if we could only accept that homosexuals are ordinary people living among us, a more purposeful and meaningful debate would have taken place over recent years.

Homosexuals are real human beings and not just people who live elsewhere. They live in every village and town in Ireland and, regretfully, such has been the hostility and contempt shown to them that they have been very reluctant to reveal their homosexuality.

I attended my first disco as a teenager and, like thousands of other young men throughout the country, I went in the hope of meeting some understanding female...

... Nevertheless, I enjoyed my teenage years, the parties, discos and dances. Female company is a wonderful thing. I enjoyed the craic and all that goes with being single. In 1986 I married Deirdre Malone and during the past seven years I enjoyed a very fulfilling relationship with her. It has made me a more complete person and, indeed, a much happier one.

I make this point to demonstrate that we are in the same position as thousands of other couples throughout the country and this is accepted as being normal. By definition homosexuals are people who are sexually attracted to members of the same sex. For some reason they do not feel the same urge to form a relationship with someone of the opposite sex. We all need to love and to be loved. I pity homosexuals because they cannot share the same type of relationship as the one I enjoy. In most cases their relationships have to be conducted in a very secretive fashion. If found out, they face rejection by society and in some cases by their families. For too long we have made jokes about homosexuals instead of trying to understand them. The time has come for people to show tolerance, compassion and understanding to all our people. It is vital for a Government to lead its people and the introduction of this Bill is welcome...

... A few weeks ago I supported the Minister for Health when he successfully brought a Bill before this House to make condoms more freely available. The Minister laid great emphasis on the fact that he was bringing forward his proposals in an effort to prevent the spread of AIDS. Surely we must be consistent. If we are serious about fighting this dreadful disease action must be taken now. I know that a number of people outside this House today vented their anger and disgust at the introduction of this Bill, but I ask them if they really believe that people who engage in homosexual acts are criminals."



**Frances Fitzgerald, T.D.**  
(Fine Gael)

"My support for this legislation and the discussion is marred only by the small amount of time allocated tonight. The decriminalisation of homosexuality which will result from the passage of this legislation is long overdue.



The concept of male homosexuality as a criminal act has done its share in upholding prejudice and in creating and sustaining a climate in which some of our citizens have been marginalised and ostracised. Individuals and families have suffered greatly.

I congratulate the Minister on introducing this important legislation. I agree with Deputies who have said that it respects human rights and shows tolerance. This is extremely important in our maturing democracy.

This Bill will at least put one building block in place as we construct a society based on tolerance and respect.

There are many difficulties on this island in moving towards tolerance and respect for different viewpoints, but we should try to develop tolerance and respect. The lack of time for this evening's debate does not help that process. Unless we debate the issues and listen with respect to each other, the prejudice will continue even if it has no basis in law.

I have spent much time lobbying for change on issues of discrimination. I understand the importance of change at different levels. The law is one important level and attitudes are another. The behaviour caused by prejudice will not change easily and will definitely not change if discussion is swept under the carpet. That is why I regret that we do not have more time.

I have worked with women and women's groups looking at the issue of homophobia and invariably that opportunity has resulted in breaking down barriers and the sweeping away of many of the myths and misunderstandings. We need to share information and attitudes in relation to homosexuality more than we have done. I understand that for some colleagues this legislation is problematic. I respect their views; but as legislators we are here to lead, to make just laws and to ensure that fundamental human rights are respected. We have already been found guilty of infringing human rights because of our laws on homosexuality. What we are doing today simply brings Ireland into line internationally. As a modern democracy we need to face up to the meaning of tolerance, to the importance of having confidence in our citizens.

This Bill is the kind of legislation which a tolerant and competent community would want to have.

The next stage on this issue must be focused on understanding and breaking down the barriers, understanding the fears and moving ahead...

We should ensure that programmes on sexual education, on parenting and on loving relationships are carefully included in our school curriculum."



**Mary Flaherty, T.D.**  
(Fine Gael)

“The central issue of this Bill concerns awarding basic human rights to a minority. Being homosexual, especially in Ireland, is not an easy experience. Even with this legislative change the position of homosexuals will remain difficult for many years. One of my colleagues referred to the fact that as a group they suffer more illness and have more deaths from murder and suicide. I read those statistics rather differently from my colleagues. I contend those statistics underline the very vulnerability of this group.

Decriminalising homosexual relationships will allow their way of life to become more open, less clandestine and, I believe, will facilitate more responsible, stable relationships and lives.

As some of my colleagues have said, in the past fear of difference led to appalling treatment of groups of our citizens of which we would now be justly ashamed – groups such as the mentally ill and children born outside of marriage. Indeed, it is not so long since the most appalling treatment of them was perceived as moral and justifiable. I firmly believe that by moving a stage further today in coming decades we will look back in horror at the attitudes that prevailed and caused us to put this legislation on our Statute Book.”



**Derek McDowell, T.D.**  
(The Labour Party)

“On the substantive issue, homosexuality has been and always will be with us. It is an innate disposition of a percentage of our population, both male and female. It is not a disorder. As such, it is an integral

part of a person's expression of their identity, as integral as gender or race. To have to hide one's sexual orientation for fear of discrimination or worse is a cause of huge stress and damage to the individuals affected and, I would suggest, to our society as a whole...

... We, as legislators, have a role as leaders in society to help to create a climate of acceptance and tolerance which ensures gay people are accepted as equal citizens...

... We subscribed to the European Convention on Human Rights because we believed some fundamental human rights are essential in a democracy. To express one's sexual orientation is a basic right. This Bill is not an attack on conventional sexual morality and heterosexuality. It upholds the right of everybody, homosexual or heterosexual, to privacy in their own bedroom and does not present a threat to anyone. It enhances our society.

There are those who argue that 17 is too young and that the age of consent should be 18 or 21 years. The essential point is that the age of consent must be the same for homosexual and heterosexual activity if we are to send the right signal. The purpose of the legislation is to accord dignity to the gay community and to do this a common age of consent is essential – anything short of that would only encourage further discrimination."



**Nora Owen, T.D..**  
(Fine Gael)

"It has been said so often now that it is almost a cliché that the true value of a society can be measured by how well it deals with its minorities. We have been waiting a long time for this Bill which implements the decision of the European Court of Human Rights. I commend the Minister for bringing it before the House. It is interesting –and I will develop this point later – that a female Minister brought this legislation before the House. The European Court of Human Rights declared that the Offences Against the Person Act, 1861, and the Criminal Law Amendment Act, 1885, violated section 8 of the European Convention on Human Rights. It is important to read into the record what Article 8 says: "Everyone has the right to respect for his private and family life, his home and his correspondence."...

... I do not believe there is anything as fundamental, apart from the right to life, as the right to our sexuality, which is our very essence and makes us what we are.

If we want to be a party to that convention, we cannot decide to pick and choose from it. As Deputy Flaherty said, maturing sexually is painful and very difficult. None of us is too old to have forgotten the difficulties experienced during our adolescent years. I am referring to the difficulties for heterosexuals but how much more difficult it must be for maturing adolescents who, through no act of theirs are attracted to people of their own sex rather than to the opposite sex. Despite all the stereotype role models in books and films young people may be attracted to members of their own sex and do not have anyone to whom they can turn for advice and help. Very often they cannot talk to their parents because of the lack of education in this area. I agree with Deputy Frances Fitzgerald's views on sexuality training and how we must learn to face up to the issues in our society. There is no point in ignoring or redefining homosexuals as if, somehow by doing so or thinking if you say often enough that they should not engage in these acts, they can stop being homosexuals. It is nonsense to say, as one of my colleagues said, that homosexuality is a recent phenomenon. Since the time of Adam and Eve people exercised all sorts of sexual preferences as they do now."

# CRIMINAL LAW (SEXUAL OFFENCES) BILL 1993 – SEANAD SECOND STAGE DEBATES

The Seanad Debates on the Criminal Law (Sexual Offences) Bill 1993 began and were completed on 29<sup>th</sup> June 1993. Committee Stage and Report and Final Stages were both taken on 30<sup>th</sup> June 1993 and the bill was passed.

Extracts from the Seanad Second Stage Debates have been reproduced here, taken from the Oireachtas record and can be viewed in full at: <http://debates.oireachtas.ie/seanad/1993/06/29/00006.asp>



**Senator David Norris**  
(Independent)

“I have always regarded myself as a liberated person but I must say there has been an unusual spring in my step since last Thursday and I have genuinely breathed more freely.

This is for me a happy day for my fellow legislators have chosen, as the law makers of a free and independent republic, to liberate the gay community from an oppressive, corrupt and deeply damaging law, whose origins are shrouded in the mists of ancient religious prejudice.

Although I regret that this Bill did not originate in the Upper House, as it had been at first intended, I cannot do other than commend today the courage and clarity of the Minister’s handling of the passage of the Bill through the Lower House and the humanity she demonstrated...

... By effectively wiping the lingering shame of a British imperial statute from the record of Irish law, our colleagues in the Dáil have done a good day’s work. I confidently anticipate that we in this House will complete that work honourably. I have always said, in defiance of comments from abroad, that the

Irish people were generous, tolerant, decent and compassionate and that this would one day be reflected even in that sensitive area of the law governing human sexuality.

By enacting such a law in what is admittedly a delicate area, we are extending the human freedoms of all citizens in this State. As the great apostle of Catholic emancipation Daniel O'Connell said, in pleading his case at the bar of British public opinion, human dignity and freedom are not finite resources. By extending these freedoms to others, one's own freedom is itself enhanced and not diminished. This is the kind of Irish solution to an Irish problem of which we, as Irish men and women can feel justly proud.

... It would be tedious and wrong of me to inflict an academic lecture on the House on this occasion. Nevertheless, some glance at the source of this legislation is I think relevant. Those who believe that there is an innate horror of homosexuality occurring generally throughout mankind in history are wrong. Some kind but anonymous correspondent sent me an article from a Jewish newspaper yesterday morning entitled "Judaism and Gays: A Faith Divided". In this, the American lecturer Denis Prager examines from a hostile point of view, the question of homosexuality. Although I do not agree with his opinions, they are founded upon an accurate historical assessment and I quote from the article:

Prager begins by noting that Judaism alone among religions of the ancient world opposed homosexuality. In Greece and Rome, among the Phoenicians and the Canaanites, a man's preference for other men was of no more consequence than another's choice of beef over mutton.

This is indeed a fact, although one might well have included other civilisations such as the Egyptians who also celebrated homosexuality officially to such an extent that not only ordinary mortals but even their gods engaged joyfully in homosexual relations. It was for this practical reason that the Old Testament Children of Israel sought to define themselves against the stronger surrounding cultures by outlawing and condemning as blasphemy something that was widely regarded in the ancient world as an integral part of the culture of the main civilisations.

The proscription on sexual activity of a non-reproductive kind also had the incidental advantage of increasing a small and vulnerable group. This, naturally enough, is reflected in the commands of Jahweh to the ancient people recorded in Genesis: "Go forth and multiply". Whatever relevance this command may have had to a threatened tribe 4,000 or 5,000 years ago attempting to survive in the desert in hostile circumstances, that relevance must surely be questioned today with the world population set to double in the next 25 years. I cannot but admire the gusto and lack of restraint with which my heterosexual colleagues have carried out the commands of God in this instance, although not in many other.

For amateur theologians, it is worth recalling that the principal attack upon homosexual practice is contained in the Book of Leviticus in a section which deals mainly with dietary codes. It is remarkable that the same harsh penalties as for homosexual behaviour are also held to exist for the eating of shellfish or the wearing of worsted cloth. I have yet to hear of a campaign by

An Bord Iascaigh Mhara or the Textile Board for full implementation of the Code of Leviticus in Irish law. In other words, we have sensibly understood the concept of historicity, the fact that even sacred texts must be seen in their social, cultural and historical context and not uprooted and transplanted unexamined into modern life.

It is clear from what I have said that the source of the taboo for homosexual behaviour can be found in ancient religious codes. This is reflected even in the language of the legislation which we are setting about to dismantle this afternoon. Even the terms “sodomy” and “buggery” have roots in the religious power struggle. Sodomy comes from the tales of the cities of the plains, Sodom and Gomorrah, a tale in the Old Testament whose development is complex and difficult to interpret. Anyone who seeks enlightenment on this point could do no better than to consult *The Church and the Homosexual*, by the distinguished Jesuit biblical scholar, Fr. John McNeale, S.J. Buggery comes from the middle French *boulgre*, meaning Bulgarian, because of the attempts by the Vatican to smear the adherents of the Albigensian heresy, seen as Cathars or Bulgars, with a reputation for unorthodox sexual practices.

It is also worth noting that the behaviour which is this afternoon in the process of being decriminalised was, until the 16th century, a matter for the ecclesiastical rather than the civil courts, a question of sin rather than crime. It was only when King Henry VIII incidentally took control of the ecclesiastical courts that this behaviour made the transition from sin to crime for the first time, in an Act of Henry VIII of 1533. Under this law, the possible penalties included death and forfeiture of property. The first recorded conviction was that of a clergyman, Reverend Nicholas Udall, headmaster of Eton and author of the first English comedy “Ralph Roister Doister”. It is instructive to note that the first Irish victim of this law whose conviction and execution came a century later was also a clergyman, Bishop John Atherton. There is a grisly appropriateness about his end since he was the very cleric who, having noticed the failure of this law to extend to Ireland, mounted a “save Ireland from sodomy” campaign. This campaign was so successful that he paid for its introduction with his own life, hoist, and one might say, with his own ecclesiastical petard – let bishops beware.

This law survived with its provision for capital punishment until 1861 when in the Offence Against the Person Act of that year, which now seems a harsh and unsustainable enactment, the penalty was reduced from death by hanging to a possible term of life imprisonment. The last execution took place in Scotland in 1830. I need hardly say that to the modern imagination the judicial murder by the State of two of its citizens for consensual erotic activity is morally repugnant.

The other law which mercifully will vanish from our Statute Book as a result of our deliberations is the so called La Bouchere Amendment of 1885. This was introduced late at night in the British Parliament as an adjunct to a Bill to which it had no connection and criminalises what it describes as “acts of gross indecency between males.” Because there is no definition of precisely what constitutes gross indecency this remained to be determined by case law.

It will I am sure surprise and horrify the House to learn that in the 1950s two airmen in Britain were sentenced under this Act for the crime of having looked

lasciviously at each other. This gross invasion of human relationships would threaten all of us if it were allowed to remain in force. However, the Garda and the Irish courts have shown a great deal more common sense than their British counterparts. The 1885 Act has been aptly described as a blackmailer's charter.

The modern gay liberation movement effectively started in the late 1960s in the United States of America by analogy with the struggle for black and women's civil rights. By the early 1970s these ideas had spread to Ireland. I and many other people were involved in those early movements and among the tasks which confronted us was that of dealing with a considerable number of men who were arrested in what appeared to be compromising circumstances.

It has been said that there have been no prosecutions for over 40 years, but this is not the case. In the 1970s when gay people were arrested, we defended them so successfully that within a few years the number of arrests by young police officers anxious to accumulate a high score of convictions had dropped to virtually nil. But I do remember very clearly the humiliation caused to those accused even when we secured their acquittal. In particular I recall one occasion when a young man was forced in the Dublin District Court to describe in detail and repeatedly an act of fellatio or oral intercourse in which he had engaged with another man in the Phoenix Park. The judge amused himself by making comic remarks about this particular practice to the huge enjoyment of those in the body of the court and to the understandable human distress of the accused. I should also point out that within the last couple of years the 1861 Act has been invoked by a judge in a case involving the accusation of rape by a man upon his wife which was successfully defended through a plea of consent, whereupon the judge relied upon the provisions of the 1861 Act which held that regardless of consent an act of buggery even between husband and wife was a criminal matter and sentenced the man involved to a term of imprisonment. This was a spectacularly unsavoury case but it does highlight the fact that one can never presume the total inertia of the law.

By 1974, partly as a result of our experience in the courts and partly because many of us with our new found dignity as members of the gay community found the notion of being labelled criminal offensive, we decided to go on the offensive and to sue the State of Ireland in the High Court in order to demonstrate that the existing provisions of the law conflicted with the notion of civil and human rights in Ireland and were, therefore, unconstitutional.

We mounted a powerful case involving international expert witnesses. Our intention was to end the conspiracy of silence that has for so long surrounded



the subject of homosexuality from the days in which it was described as the *peccatum, illud horribile, inter christiani non nomindaum*, that crime which is so horrible that it must not be mentioned among Christians.

In his judgment, Mr. Justice McWilliam found that he was persuaded by our evidence that there was a large minority of people in the State who were homosexual, that they were not mentally retarded, that they were not emotionally sick, that they were not child molesters and the list went on until we were convinced that we had won. However, at the last minute there was a swerve in the judgment and the learned judge found that he could not determine in our favour because of the Christian and democratic nature of the State. The case has been built around my own experience as a gay man. Although the ideal would have been to get one of our clients, as a victim of the law, to challenge its constitutionality, understandably no one was prepared to do so.

One of the principal elements of my case was the fact that in the late 1960s I had collapsed in a Dublin restaurant and was rushed to Baggot Street Hospital with a suspected heart attack. After examination it emerged that what had occurred was an anxiety or panic attack rather than a heart attack. Having been referred for counselling the sources of this anxiety emerged as the recent death of my mother, the emigration of a close friend and the fact that subconsciously I had apparently felt deeply threatened by the existence of the criminal law. I was referred to a psychiatrist whose advice to me was to leave this country forever and find refuge in a jurisdiction where a more tolerant attitude towards homosexual men prevailed, specifically the south of France. This well-meant advice I found deeply offensive. I ask this House to consider how any Member would feel if they were professionally advised to leave their country merely on account of something over which they had as little control as the colour of their hair. This outraged me and propelled me into the moves that led to the foundation of the Irish gay rights movement. It also proved useful in putting together a legal case.

When we appealed to the Supreme Court we got another moral and intellectual victory but a divided judgment. On the one hand the Chief Justice argued that the criminal provisions of the law were necessary in order to induce homosexual men into marriage. This struck me as a peculiar view of that sacred institution. I was not however surprised when within a couple of years, one of those judges who had collaborated in this opinion, unburdened himself in a case involving nullity of the view that if a gay man contracted a marriage it was not by virtue of his orientation, a valid marriage in any case. This was what one might reasonably describe as a no-win situation. Gay men were to be terrorised into marriage by the full vigour of the criminal law, but once inside that institution it turned out to be a mirage rather than a marriage as a result of their sexual orientation. It defeats me how the family can be thought to be supported as an institution by these irrational views.

Moreover, anyone who thinks that the criminal law has remained a dead letter would do well to read the transcript of my case in the European Court of Human Rights which was ultimately successful thanks to the brilliant legal work of my then counsel, now President Mary Robinson. She unearthed a series of cases in the matrimonial court in which the learned judge had stopped evidence being given by one of the spouses in a marriage to the effect

that he was and continued to live as a homosexual after the marriage. This stopping of the evidence was done on the basis that if it continued the judge would feel required to refer the book of evidence to the Director of Public Prosecutions and a criminal prosecution might well have followed. In other words, what I am saying this afternoon is that despite appearances to the contrary, the provisions of the criminal law continued and will continue until they are extinguished by our acts to exert a malign social and legal influence upon the population of Ireland.

It has been argued, however, on abstract grounds that this change in the law is a retrograde step because homosexuality is an unnatural practice. It may be useful to inquire the way in which this word “natural” is used. The American researchers and sociologists Margaret Meade, and Forde and Beech found in their surveys of primitive societies that in 67 per cent of these societies, man in his and woman in her natural environment, homosexuality was accepted and to some extent institutionalised.

Turning to the animal kingdom, the distinguished scientist Wainright Churchill has established that homosexual behaviour occurs throughout the mammalian order in nature, increasing in frequency and complexity when one ascends the phylogenetic scale, and the most wonderful intelligent and endearing of marine mammals, the dolphin, is among those non-human creatures that have been known to establish lifelong monogamous homosexual relationships.

One must, therefore, question the sense in which the word “natural” is employed. It is clearly a theological derivative of the Roman Catholic notion of natural law, but even here one can raise a question mark. The great theologian St. Thomas Aquinas actually instanced the existence of homosexuality as an example of his proposition that what is natural for the individual may be unnatural for the species and *vice versa*. In other words, to force a homosexual man to behave heterosexually is just as much a violation to his nature as it would be to force a heterosexual man to behave homosexually.

This leaves us with the problem of what God intended, if one is a religious person and I am. I have heard repeated again the hoary old joke God made Adam and Eve, not Adam and Steve. This is an unnecessarily narrow view of God’s intellectual horizons. I have no reason to doubt that God created both Adam and Eve, and Adam and Steve. If God did not create Adam and Steve, then who did? It is also simplistically argued that the same God designed the various organs of the human body for specific purposes. This is an argument persistently engaged in by those right wing pressure groups whose minds are firmly stuck in the human plumbing. I do not intend to venture too far into this distasteful area of controversy but I may point out that when the late Member of this House and Nobel Prize winning poet, William Butler Yeats, wrote in “Crazy Jane talks to the Bishop” that

... Love has pitched his mansion in the place of excrement; he was speaking of heterosexual and not homosexual love. I wonder if my friends in the misnamed organisation Family Solidarity would seriously suggest that because the penis is used for the purposes of bodily elimination it should be restricted to this function and not employed in sexual relations.

I only make this point because Members of both Houses have been inundated

by these groups with squalid pamphlets purporting to describe in lurid detail the grosser aspects of what they imagine to be common sexual practices in the gay community. The apparent source of this material is something described as the Canadian Intelligence Service which seems to me in this case to be a contradiction in terms.

Disease has also disreputably been invoked as an argument by these same groups. I am very glad of the Minister's wise words in this area. They have used the tragic situation with regards to AIDS as a stick with which to beat the gay community. This is, to my mind an unspeakably sad and disreputable thing to do. May I place on the record the fact that according to the World Health Organisation statistics the mechanism of transmission of the AIDS virus in 70 per cent of the cases reported on a global basis is straightforward heterosexual intercourse. The remaining 30 per cent is divided between intravenous drug users sharing needles, mother to infant transmission, use of untreated blood products for haemophiliacs and homosexual relations. It would be grotesque if I were to call for the banning of heterosexual relationship as a result of this information. Moreover, even were this disease confined entirely to the gay community, that would scarcely be an argument for legal repression.

There are certain diseases that are apparently confined to specific groups. If I may give one instance, sickle cell anaemia occurs only in the black population. It would rightly be regarded as abhorrent if these medical facts were used as the basis for a theory of racial inferiority. This is the direction in which, if one takes up this kind of argument, one will inevitably travel.

Let us remember it is but 50 years ago that gay people were systematically victimised with the complicity of Church and state in Germany under the Nazi tyranny when they were made to wear the pink triangle in the concentration camps as a badge of infamy. They were the first group to be incarcerated in the concentration camps, to be tortured, to be medically experimented upon and finally to be exterminated. The gay movement, of which I am proud to be a member, has adopted this pink triangle as its international symbol and turned a badge of infamy and shame into a badge of pride and humanity.

There is one other argument I would like to address. I heard in the Lower House one Member say that if this law were passed it would be the thin end of the wedge and he might have to witness the horrible spectre of two men holding hands at a bus queue. May I say that if his mind were to be genuinely disturbed by such a prospect then this mental balance is precarious indeed. From the cradle I have been brainwashed with heterosexuality. I have frequently witnessed the spectacle of young heterosexual couples holding hands and enthusiastically kissing at those very same bus stops and I merely wished them well and passed on my way. May I reassure the House that should two young men or two young women hold hands at a bus stop in Dublin, the island will not be overwhelmed by earthquakes and turbulence nor will the world come to an unexpected and sudden end.

It is, therefore, with pride that I welcome this Bill to the House in its provisions dealing with homosexuality.

Young people will no longer have to grow up in the shadow of the taint of criminality which has blighted the vulnerable youth of so many of our citizens with terror and shame.

The talent that has been destroyed and repressed in so many people will now be freely and generously available to the wider community and much of what has been unnecessarily squandered in the past will be added to the richness of Irish life. This, therefore, is in that sense a happy day.

Nevertheless, I cannot in conscience vote for this Bill in its present form. This is because of the provisions regarding the matter of prostitution. It would go hard with me to accept my liberation without a murmur at the expense of the victimisation of another vulnerable group. It is for this reason that I have put down a series of amendments opposing sections 6 to 13 of the Bill which seeks to criminalise prostitution. I believe that this is both unwise and ungenerous, although I perhaps understand the tactical reasons for which it was done, which were very successful, may I say. I shall argue the case against such provisions and in favour of the unlinking of the two issues of prostitution and homosexuality so that the matter of prostitution may be calmly and rationally considered at another date. I shall speak further on these issues when we come to deal with the particular sections in the Bill.

I wish to say how extraordinarily heartened and proud I was to be in the Dáil when this Bill was debated. I listened to the vast majority of speeches, in particular the speech of the Minister, Deputy Taylor, and, from the backbenches of Fianna Fáil, the speech of Deputy Power who really encapsulated the whole ethos of this discussion when he spoke of attending discos and dances and enjoying the delights of female company. He said he did not quite understand gay people but that everyone wants to love and be loved. That is the bottom line. I was also immensely heartened to hear the words of Senator Crowley who spoke with his usual eloquence and passion. I was very pleased, indeed, that he was able to do so.

May I put on the record my profound debt to the Irish Gay Rights Movement, the National Gay and Lesbian Federation, the Gay and Lesbian Equality Network and various other organisations. In particular, may I salute the presence here today of two of the co-chairpersons of GLEN, Susie Byrne and Kieran Rose, who did very remarkable work. They are among the few who can be named.

The Minister is aware of the fact that some months ago President Robinson very movingly, invited leaders of the gay community to Áras an Uachtarán. This was a very important symbol and message sent to the Irish people that young gay men and women are part of the Irish family from which they have been excluded for so very long. I had breakfast with those who met the President in a little hotel at the foot of the hill near the Phoenix Park. There were about 30 or 40 of us. Somebody asked how many were prepared to have their photograph taken with the President. Only about half of these people, who are leaders of the gay community, who are "out", were able to place themselves in that position. I remember with great pride one young woman

from the west of Ireland who said she was delighted to be there despite the fact that her parents had told her that if she presented herself at Áras an Uachtarán and had a photograph taken with the President of Ireland she need not come home for Christmas. Many people have spoken of my courage but I had nothing like the courage of that young woman who took the decision to voluntarily exclude herself from a happy family celebration at Christmas so that she could make her presence visible in the company of the President of Ireland.

May I say on this question of my alleged courage in the lonely battle I had, I did not have any courage and it was not a lonely battle. It was enormous fun but there was agony, misery and shame before that. Before we founded the gay movement I knew very well what it was to wake up in the morning and wonder if I was indeed the monster that had been portrayed on television, in the newspapers and so on.

The establishment of the gay movement resulted in solidarity, the gay movement and community is one of which I am immensely proud, not only in their struggle for legal freedom but also in the magnificent way they have responded to the AIDS crisis. Once I made that connection I no longer felt in the slightest way isolated...

... I thank the Minister for her humanity, generosity and extraordinary political skill. As a political observer I recognise the clear risk she has taken in not taking the mean option taken by the British. They introduced parsimonious, badly drafted, ungenerous legislation. I thank the Minister in the names of the many thousands of gay people in Ireland."



**Senator Cathy Honan**  
(Progressive Democrats)

"I welcome this Bill because it is about freedom, about tolerating differences and about respecting the human rights of other people who, though they may be different from us, have to be respected and have their lives and rights considered. This Bill concerns private morality and does not in any way affect how people behave. Recently, we saw another reforming measure before this House which decriminalised suicide, and I do not think anybody would suggest that will lead to an increase in the incidence of suicide. By behaving in a humane fashion on this matter we have done a good job.

Senator Norris and others spoke about homosexuals; I would like to talk for a moment about lesbian women. I was a member of the Commission on the Status of Women which received submissions from lesbian groups. It is widely accepted by social researchers that approximately 10 per cent of the population has a homosexual orientation, a substantial minority which, for the most part, up to now has been an underground minority.

Even though in the past ten or 12 years we have seen the development of an articulate gay rights movement, it is still rare to find a gay man in Irish society who has openly declared his status, and rarer still to find a lesbian woman who has taken similar action.

This matter raises complex issues of personal privacy. There is no doubt that a personal taboo was in operation, as well as the fear that an open acknowledgement could be damaging both personally and in career terms.

A paper entitled "Lesbian feminism in Ireland", prepared for a community women's workshop held as part of the Third International Interdisciplinary Congress on women, stated:

There are no laws against lesbianism in Ireland. This does not mean that we live in a lesbian utopia. The taboo status of lesbianism functions as an unwritten law suppressing not only the practice of lesbian sexuality but the awareness of its very existence.

If we look at the evidence in this country, lesbians and gay men were right to be cautious. I welcome the legislation because through it we are making a statement and sending out a signal that needed to be sent to these people.

In submissions to the Commission on the Status of Women dealing with attitudes to lesbians, the point was made that there was not a single open or "out" lesbian woman in any position of power or public office in Ireland, and only rarely have individual lesbians spoken out in the media. The vast majority of the population rarely hears anything factual or positive about lesbians. The point was also made to the commission that lesbians are dismissed from jobs, lose custody of children, are evicted from housing, are rejected by their families, are beaten up and harassed, are ejected from political, religious or other social groups, and are barred from public places in Ireland, all for revealing their sexual orientation or having been identified as being lesbian.

It is the fear of some or all of these things happening, rather than their actual occurrence, that causes oppression in the lives of lesbian woman. While this measure does not mention lesbians, the fact that we are decriminalising homosexual acts makes a welcome statement to all of these women. The fear of oppression results in enforced and continuous secrecy, restriction on social activity and isolation, as well as guilt and ignorance about individual sexuality. Lesbian teenagers have no positive Irish role models.

I welcome the recent development of including sexual orientation as a category for protection under the unlawful discrimination of the Unfair Dismissals Act. The Criminal Law (Sexual Offences) Bill makes a further statement on this. The Commission on the Status of Women made four recommendations regarding lesbians, and two of those are now being fulfilled.

The Second Commission on the Status of Women also made

recommendations in relation to education, namely, that we should have a module on homophobia, that is prejudice and hatred of lesbians and gay men, in the proposed sex and relationship education course in second level schools because there is much bigotry in this country. Young people need to be educated. They need to be told about these things and be able to talk about them in a normal setting.”



**Senator Mary E F Henry**  
(Independent)

“The Minister is to be congratulated on the fact that she took the advice of the Law Reform Commission rather than looking at legislation particularly in England, which we too frequently do and due to lack of imagination bring in our own version of their legislation which often is not very good. The legislation to which Senator Neville referred was introduced 25 years ago. I am glad we waited until this Minister brought in this legislation rather than bringing in legislation which was introduced 25 years ago in England and which is demonstrably flawed. The removal of the section on gross indecency is probably even more important than the decriminalisation of homosexuality itself..

... Our 1937 Constitution sees the family as the basic unit of social structure, and this appears to have been so before the 1937 Constitution. However, the concept of the family was totally different in times past. For example, under the Brehon Laws the family was not the nuclear family of parents and offspring but a much larger group. Under Brehon Law, the family was those who were related in the male line to the fifth generation, which would include a very large number. This view of the extended family is far more acceptable than the view which concentrates on the nuclear family which appears to have become popular nowadays.”



**Senator Marian McGennis**  
(Fianna Fáil)

“...the Bill stands on its own merits as a fundamental development of human rights, which will put an end to unwarranted intrusion over the very long period into the private lives of adults and which are recommended by the Second Commission on the Status of Women and the Law Reform Commission... The

criminalisation of homosexual acts remaining on the Statute Book gave tacit approval to a minority who engaged in what is described as “queer bashing”. I do not think Senator Norris referred to this but perhaps he did. He referred to what he termed “the inertia of the law” and perhaps that fuels the “justification” of the people who take the law into their own hands. There have been numerous cases of homosexuals being beaten up; the incident in Fairview Park particularly stands out in my mind. While this kind of prohibition on the Statute Book may not have encouraged such behaviour, it did not discourage it and I am glad it has been removed.”







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