

by Douglas Sarff
Gay News Alliance/News West

SACRAMENTO, Calif.—Had a script been written for it by a Shakespeare, passage of the consenting adult sexual acts bill by the California Senate May 2 could not have been more dramatic.

The last-ditch effort by police departments and fundamentalist churches to defeat the bill—the hectic maneuverings on the Senate floor the grim debate—the tie vote and the breaking of that tie by Lt. Gov. Mervyn Dymally—all seemed parts of some mysterious scenario deliberately planned to maximize the tension and publicity.

Dymally had to be flown by helicopter to the capitol out of a San Francisco fog. At 7:50 p.m., standing under a vast portrait of George Washington, dwarfed by the vast, columned chambers of red and gold, Dymally gazed upon the hushed, expectant Senators and the hushed, expectant gallery and announced:

"The President of the Senate votes 'aye.'" There were gasps from the opponents in the gallery—and applause from the Gays. It had been done.

The historic bill, named after San Francisco Assembly man Willie Brown, would legalize sexual acts between consenting adults in private.

Called by some the "homosexual bill of rights," it would void California's century-old laws against Sodomy, oral copulation and adultery for all kinds of partnerships: man-man, woman-woman, and man-woman.

Brown introduced the bill annually starting in 1969. But this was the first year the bill got beyond the state Assembly. On its first trip to the Assembly floor in 1971, it was overwhelmingly defeated. This time it passed by a margin of almost 2-1.

Assuming that the Assembly approved minor Senate amendments to the bill (including a prohibition against homosexual acts in penal institutions) and that Gov. Edmund Brown, Jr. signs it into law, California will be the first state

to have passed such legislation with debate on the floor of its legislative houses.

"And that's the crucial point," said Morris Kight, one of a contingent of Los Angeles gay activists who flew to Sacramento for the vote.

"Everybody knows we did it. Both sides have been more than amply heard. The burden of oppression has been lifted from our shoulders in the sunlight—not by some back room deal.

"And isn't it wonderful?" Kight continued. "Isn't it poetic justice that California, where the gay liberation movement began so many years ago, will be the place where it occurred?"

"This could be the greatest victory in the history of the movement," added Dave Glascock, another longtime activist and aide to Los Angeles County Supervisor Ed Edelman. "In none of those other states (where such legislation has been passed) did anybody seem to know about it, or even seem to care."

"Praise the Lord!" exclaimed the Rev. Troy Perry through his tears. Perry recalled the summer day in 1971 when a few score Gays stood at the foot of the Capitol's vast steps, the end of a march from San Francisco for gay rights. Over the great dome, a halo-colored like a rainbow—had circled the noonday sun. Perry and others had marched all week from San Francisco. They were worn and tired, and they were waiting for a miracle.

Willie Brown had seen it, too. He pointed at the sky and told the crowd, "It seems the Man up there is trying to tell us something." Three years and ten months later, his bill would finally pass the Senate.

As usual, the "miracle" came hard. There had to be the hours of anxiety, the fear of one more loss, the starting over for another year. Opponents made a fight of it—and almost won.

Led by Sen. H. L. Richardson (R-Arcadia) and Senate Minority Leader George Deukmejian (R-Long Beach), the opposition garnered 20 votes. If any of the other 20 Senators merely abstained, the bill would be defeated.

Overnight, opponents had changed the minds of Joseph Kenick (D-Long Beach) and George Zenovich (D-Fresno). Both had told gay rights lobbyist George Reya that he would get their votes. He didn't.

On the first roll call, at 11:20 a.m., the vote was 16 ayes and 20 nays, with the remaining four votes 'absent'. Gays were ready to hang crepe. Some wept.

But George Moscone (D-San Francisco), the Senate sponsor of the bill, left his desk to tell them: "Don't give up. It's closer than you think."

One by one, through the next nerve-racking hour, Moscone, aides and Gays rounded up the other senators—all four of whom had promised a 'yes' vote, but, reeling from a storm of opposition mail, had been hoping to avoid it.

At last, Nate Holden (D-Culver City), who was reminded by the gay contingent that they had given him their endorsement when he sought his office in the first place, entered the chambers and cast the vote that made a 20-20 tie.

'Now it was up to the Lieutenant Governor to break the tie under his constitutional role as President of the Senate. But the black Democrat was in Denver to be honored for his own activities in the black civil rights movement.

He would have to take a plane to San Francisco and couldn't be delivered to the Capitol by helicopter until nightfall. There would be a seven hour wait for his arrival.

Some senators had already left and were returning to their districts. Those remained were locked within the chambers and adjoining cloakrooms. Thirty-three were there when Dymally arrived. For the Gays, it was almost as if he had appeared from heaven—"on a thunderclap," said one.

The morning's debate had been partly biblical, partly philosophical and partly politics.

Calling it "the most important bill ever introduced in this body on the critical question of victimless crime," backer Moscone asked the "respected" opposition not to "impose your moral codes upon the public. That's not the business of the state."

But Richardson had he Bible and 3,000 telegrams against the bill. He held the telegrams above his head in fistfuls. "The will of the people must be served," he said. And he quoted from Leviticus:

"A man shall not lie with a man, nor a woman with a woman. . . It is an abomination." The New Testament, he added, declares that homosexuals shall "not inherit the kingdom of God."

"When we vote on any bill,"

Richardson urged, "we must ask ourselves a question: 'How do we reflect our character and beliefs?' We are not only judged on earth by our peers, but in Heaven, too."

The Long Beach Police Department, which had conducted a last-minute drive against the bill, had supplied Deukmejian with various statistics. Of 179 arrests for oral copulation and sodomy in the city in 1974, some 175 were for lewd acts in "public places."

While acknowledging that public sex would still be illegal under the Brown bill, Deukmejian said such figures "indicate the moral character of homosexuals."

"There is something missing in these people (homosexuals). . . something in their nature which compels them to have sex in public," said Deukmejian. "Their activities make it impossible for the general public to feel comfortable about the legislation we are contemplating here."

Deukmejian also predicted that "homosexuals and their supporters will not be satisfied with this bill. They will want more and more, until we put our sanction on their activities in public places."

Two senators, David Roberti (D-Hollywood) and Albert Rodda (D-Sacramento), rebutted Deukmejian's argument that "civilizations have collapsed because of rampant immorality."

Rodda, a distinguished history instructor at Sacramento State University--and a Roman Catholic layman--is often called "the conscience of the Senate." Citing Gibbon, Mill and other classic authors, Rodda said Rome had fallen, not because of moral

depravity, but "because of Christianity."

The Middle Ages, he said, were a time "when the church controlled the state, dictated all the laws, and burned the dissidents."

If anything had brought about the collapse of modern cultures, Roberti added, "it is the subordination of the right of privacy to the power of the state."

Had it not been for Moscone's day-long efforts, Rodda would have been the hero. Many in the gallery were his constituents. Many had responded to the Sacramento Ministerial Alliance's call for a two-day fast in opposition to the bill. They had also flooded his office with telegrams and phone calls. Rodda had fewer than a dozen letters on the side for which he voted.

In his summary speech, Moscone said that "no sane person, in this century, would call for the death penalty for homosexual acts, as Leviticus seems to do." He reminded the senators that the bill also decriminalizes oral copulation and sodomy between adults of opposite sexes--which has likewise been illegal since 1874, even in the state of marriage.

It was clear that Rodda and other senators who voted 'aye' would get no payoff at the polls. The bill divided all the factions. One senator from Fresno voted for it, while another from the same town voted against. Eight Democrats were adamantly opposed, and the three Republicans were just as adamant in its behalf. Not one senator could be persuaded to reverse his vote in order to avoid the tie. There were statemen in the chambers--on both sides.

Brown signs sex reforms

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By Gerald Hansen
WEST COAST CORRESPONDENT

SACRAMENTO, Calif. — Without ceremony or any public statement, Gov. Edmund G. Brown Jr. signed the Willie Brown bill May 12, repealing the state's laws against gay sex, fornication and cohabitation between consenting adults in private.

The new law takes effect Jan. 1, 1976.

California is the ninth state to repeal its laws against consensual sex. And it's the first state to do it with a law directed solely at sex. Illinois, Connecticut, Delaware, Ohio, North Dakota, Colorado, Oregon and Hawaii did so via comprehensive reforms of their entire criminal codes.

The reforms, pending before the Legislature in Sacramento for six years, were adopted only after a dramatic series of events in the State Senate, during which four senators had to be rounded up to create a tie, the senators were locked in the chamber and the lieutenant governor flown in from a speech in Denver to cast the tie-breaking vote.

The Assembly passed the bill in March, 45 to 26, but its fate was always in doubt in the more conservative Senate, which did not approve it May 1 before limiting its effect slightly — retaining laws against same-sex acts between prison inmates, for example, and stiffening the penalties for adults who seduce children under 14.

By this time, the newspaper headlines were large and bold. Heavy, organized opposition arose from evangelical and fundamentalist church groups, whose members flooded Gov. Brown and the Legislature with letters, telegrams and phone calls of protest. "You would not believe some of the filth of the people who profess to be Christians," one staff aide said.

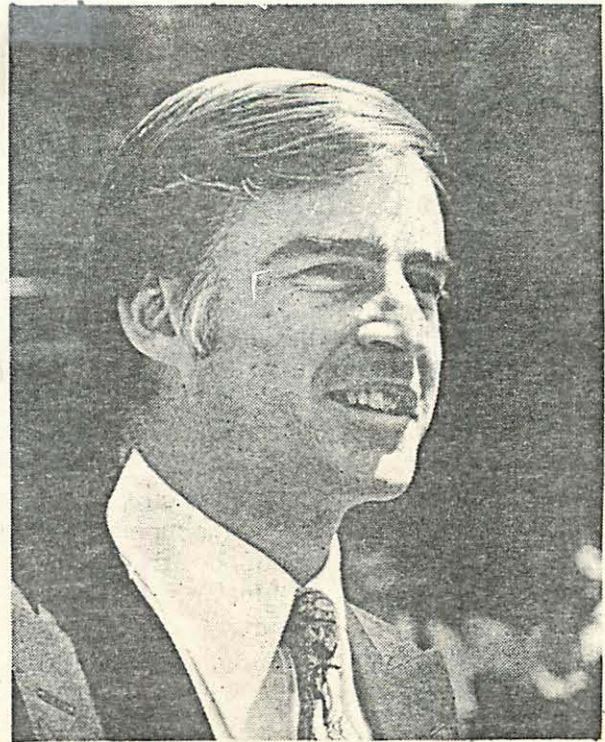
By the time the Assembly reconsidered the bill May 8, to take up the Senate's amendment, 37 church-goers from Napa were parading on the Capitol steps.

A dozen children, flanked by their mothers, played violins and sang "My Country, 'Tis of Thee," and other patriotic hymns. But the second Assembly vote was 45 to 26, just as in March.

Gov. Brown's press office reported him receiving 14 letters in favor of the bill, and 2,591 demanding that he veto it. He had 14 telephone calls for it and 470 against it, as of May 2.

As signed, the law raises to three years, from one, the minimum prison sentence for forced oral or anal sex, and acts performed with someone under 14 who is also 10 years younger than the defendant.

The age of consent is 18. Sex with someone under 18



GOV. EDMUND G. BROWN Jr.

is punishable as either a felony or misdemeanor, at the judge's option. The maximum felony sentence is 15 years. Prison sex carries a similar option, with the maximum being five years.

Chief sponsor of the bill was Assemblyman Willie Brown of San Francisco, a black Democrat who has been described in the national press as one of the most influential politicians in California and a "comer" in national Democratic circles. Though he first offered the sodomy repeal bill in 1969, it was 1974 before it came to a vote in the Assembly and March 1975 before the house approved it.

Eight solons spoke during an hour of debate on the Senate floor at 10:30 a.m. May 1. Conservatives advocated the continued government control over Californians' private lives, while liberals called for individual choice about sex.

State Sen. H.L. Richardson, R-Arcadia, waved a sheaf of papers and said he received 3,000 telegrams against the bill, only nine in favor. (A reporter sitting nearby said it looked like about 300 sheets of paper.) Richardson went on to quote the biblical book of Leviticus, and asked if two men sitting in an auto or under a beach blanket amounts to privacy.

Several senators voiced fears that legalization might make being gay acceptable in some eyes.

Another Republican, Sen. George Deukmejian, said there "have been several" adults arrested for consensual

sex at home — but then added: "Law enforcement is not going in and arresting people in their apartments."

He raised the spectre of tearoom sex. "The facts are that there is something in their nature — I don't know what it is — but they seem to have something that drives them to desire to have this exhibition-type demeanor."

Another Republican took the opposite view. Sen. Milton Marks, who is running for mayor of San Francisco, said the Senate's choice was whether private, consensual sex "is the business of individuals or the government," and "whether you believe in discrimination."

Hollywood Democrat David A. Roberti agreed. "The state has no business raising its massive power" in questions as personal as sex, he contended.

But the most enlightened presentation came from Sen. Albert S. Rodda, D-Sacramento. A Catholic who once taught history at Sacramento City College, Rodda discussed Caesar, pantheism, theocracies and Edward Gibbon ("The Decline and Fall of the Roman Empire") to prove that Rome didn't collapse because of sexual depravity.

Instead, he argued, some of western civilization's biggest problems have come from government attempts to enforce religious standards. The people of Russia, he added, rejected the church because it was identified with the state (the Tsars). And he read from John Stuart Mill ("On Liberty").

Shortly after, the votes were tallied — and the bill was failing, 20 to 16. Four senators were absent, all supporters of the bill, and it fell to George Moscone, a Democrat who is Marks's opponent for mayor and floor manager for the bill, to round them up.

Besides Marks, only two other Republicans voted for the bill, including Howard Way of Exeter, in the San Joaquin Valley's "Bible Belt."

By then, the Senate was tied, 20 to 20. It had been eight years since the last time the lieutenant governor had to break a tie in Sacramento, but now he was needed again.

Mervyn Dymally was in Denver, however, addressing a civil-rights conference. Moscone called him, and Dymally rushed to California by jet and took a helicopter to the capital city, where the Senate had been locked in its chambers for seven hours.

"The president of the Senate votes aye," he said, striding into the chamber minutes before 8 p.m. He added later:

"The state just has no business poking into the private sexual lives of consenting adults. We have a chance here to move back one phase of 1984."

The gay community had high praise for George Raya, the 26-year-old law clerk who became a full-time lobbyist for the bill in Sacramento — and who occasionally had to sell his blood in order to pay his rent.

He later received support and donations from the Alice B. Toklas and Hollywood Hills Democratic Clubs.

Several solons told him the Legislature could take up only one really controversial bill per year, and efforts to liberalize the marijuana laws were defeated some time ago. Raya is thankful the Assembly considered sex legislation anyway.

He and Frank Fitch, a Democratic gay activist from San Francisco, noted that three pro-repeal senators changed their minds at the last minute and voted against the reforms: Democrats Joseph Kennick, Long Beach, and George Zenovich, Fresno, and Republican Robert S. Stevens of Los Angeles.

The Brown Act includes a provision important to gay teachers, the two gay men noted: with consensual sex legal, sex acts after next Jan. 1 cannot be used to deny or revoke teaching credentials.