

SACRAMENTO—It is almost certain that California will be the scene of history's first major public vote on homosexuality, and that the Gay Liberation Movement is about to face its toughest, longest and most costly battle.

Opponents of the Brown-Moscone consenting sex bill, which was signed May 12 by Gov. Edmund G. Brown, Jr., have launched a massive referendum campaign to repeal the legislation by popular vote. The campaign was launched on May 19 at a Capitol news conference conducted by an *ad hoc* group called the Coalition of Concerned Christians.

The coalition must collect 312,000 valid signatures by Aug. 11 to place the question on the ballot in next June's state primary elections. If the petition deadline is met, the effective date of the Brown Bill will be delayed from next Jan. 1 until the popular vote is held.

If the referendum succeeds, the bill will be abolished, restoring the state's century-old laws against sodomy, oral copulation and adultery while retaining the criminal stigma on California's two million gays.

#### Signature Success Likely

Barring a legal challenge to the referendum, it seems certain that the group can raise the necessary signatures with ease. Gay spokespersons called for unity among the movement's often warring factions to head off what one called "a disaster in the making."

"There are probably enough gay-hating fundamentalists in the Sacramento area alone to supply the required number of signatures," said Morris Kight. He gloomily predicted that the referendum will succeed, bringing on "a police pogrom against gay people in Los Angeles to rival some of the worst atrocities in American history."

"Unless we unite for the battle ahead," continued Kight, "we may wish we never had a Brown Bill to provoke the forces of oppression. It may take our last breath and a fortune in time and money to defeat this referendum. But we must defeat it for our very lives."

#### Willie Brown Undismayed

Assemblyman Willie Brown, for whom the bill was named, told NewsWest the referendum is "an attempt by a bunch of crazy Christians to impose their moral code on everybody else." He predicted they would lose.

"You tell those people down there in Southern California to stop hanging crepe," the dynamic San Francisco Democrat declared. "We'll get the newspapers and the entertainment industry behind us. We'll get the League of Women Voters and a lot of other respectable types on television, and we'll beat those so-called Christians to a fare-thee-well. If they've got preachers on their side, we'll get our own preachers and blast the shit out of them."

Brown recalled two state pornography initiatives which went down to defeat "when the citizens became aware that somebody was trying to tell them what to do with their private lives. Well, it's the same issue here, and if it takes a half-million dollars to do the educating, we will raise it."

Leaders of the Coalition of Concerned Christians are: the Rev. Harvey Chinn, a Sacramento Methodist; state Sen. H.L. Richardson (R-Arcadia), the Brown Bill's

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## BROWN BILL

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Union. Balam said he joined the group as "a Christian individual," not as a spokesman for the paper.

It became clear at the heavily covered press conference that the group will aim its guns at the issue of homosexual teachers, arguing that schools won't be able to fire them anymore because the Brown Bill legalizes their sexual activities.

"That's the crux of this whole issue," said Rev. Chinn. "Do we want homosexual teachers using their classrooms as a platform to influence the sexual preference and the lifestyles of their students?"

Sen. Richardson told the gathering that the legislature and Gov. Brown "overrode the wishes of the people" and "put our state on record as approving homosexuality." He expressed the group's confidence that its referendum would succeed.

"We need a bare majority to overturn this bill," said Richardson. "I have no doubt about the outcome."

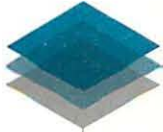
Richardson denied that passage of the referendum would give police departments a "public mandate" to carry out the "pogrom" Kight and others were predicting.

"That police have already had their hands tied by the courts," a Richardson aide told NewsWest. "They can't bust into the homes of homosexuals, and they can't use entrapment in the bars."

Depew called the referendum a "show-down on the question of morality" and "a test of whether Christian forces can assert themselves against the homosexual pressure groups and the San Francisco politicians they control, who are writing all this legislation for them."

California's referendum law differs from its initiative process in allowing residents to vote on bills already passed.

A public referendum in Idaho three years ago overturned a consenting adult sex provision in that state's criminal code revisions. The only other instance in which a gay rights issue has been submitted to a public vote was in 1974, when a fair employment amendment protecting gays from job discrimination in Boulder, Colo., was also overthrown by referendum.



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Office of the Secretary of State  
March Fong Eu

111 Capitol Mall  
Sacramento, California 95814

May 27, 1975

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TO ALL REGISTRARS OF VOTERS

Pursuant to Elections Code Sections 3500.5 and 3507, we transmit herewith a copy of the Title and Summary prepared by the Attorney General on a proposed Referendum Measure entitled:

REFERENDUM AGAINST AN ACT PASSED BY LEGISLATURE

SEXUAL OFFENSES—AB 489

Circulating and Filing Schedule:

1. Enactment Date . . . . . May 13, 1975  
Constitution IV, 23(b).
2. Minimum number of signatures required . . . . . 312,404  
Constitution IV, 23(b).
3. Official Summary Date . . . . . May 27, 1975  
First day Proponent can circulate Sections for signatures.  
Elections Code Section 3507.
4. Last day for Secretary of State to receive certificate; together with a blank copy of the petition, from Registrars of Voters who have determined the number of qualified electors who have signed the petition . . . . . August 11, 1975  
Elections Code Section 3520(e).
5. Last day for Proponent to file Statement of Receipts and Expenditures for period ending October 8, 1975 . . . . . October 15, 1975  
(If the Secretary of State qualified the measure for the ballot on a date other than August 11, 1975, the last day is the sixty-fifth day after the date the measure qualified.)  
Government Code Section 84202.
6. The Proponents of the above measure are:
 

David A. Depew	William V. Balam, Jr.
828 North Garfield Avenue	5150 Hazel Avenue
Alhambra, California 91801	Fair Oaks, California 95628

*Edward Arnold Jr.*  
Edward Arnold Jr.  
Chief of Elections Division

STATE OF CALIFORNIA  
COUNTY OF LOS ANGELES

*[Handwritten Signature]*  
Notary Public  
My Commission Expires

May 27, 1975

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NOTES TO PROPONENT: Your attention is directed to Elections Code Sections 3503, 3504, 3510, 3511, and 3513 for appropriate format type considerations in printing, typing, and otherwise preparing your referendum petition for circulation and signing.

Elections Code Sections 45, 45.1, 45.5, 58, and 3512, inter alia, give guidelines for signators.

Elections Code Sections 3520 et seq. describe the procedure for filing petitions.

Your attention is further directed to Government Code Sections 85200 et seq. regarding the circulation of state-wide petitions.



OFFICE OF THE ATTORNEY GENERAL

Department of Justice

555 CAPITOL MALL, SUITE 550  
SACRAMENTO 95814

May 27, 1975

FILED

In the office of the Secretary of State  
of the State of California

MAY 27 1975

MARCH FONG EU, Secretary of State

By George J. Roth  
Deputy

Honorable March Fong Eu  
Secretary of State  
111 Capitol Mall  
Sacramento, California 95814

Subject: Referendum Against an Act Passed by Legislature -  
Sexual Offenses - AB 489

Dear Mrs. Eu:

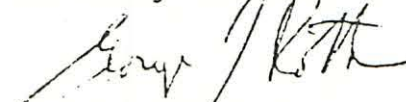
You are hereby informed that on this date we mailed to David A. Depew and William V. Balam, Jr., proponents, the following title and summary of the referendum petition against chapter 71, Statutes of 1975:

SEXUAL OFFENSES. REFERENDUM AGAINST AN ACT PASSED BY LEGISLATURE. (Chapter 71, Statutes of 1975). Act amends existing Penal Code provisions to remove criminal sanctions from adulterous cohabitation, and removes specific criminal sanctions from sodomy and oral copulation except when committed with a minor, or by force, violence or threat, or within state prison. Increases penalties for such prohibited acts of sodomy. Substantially retains existing penalties for such prohibited oral copulation. Makes changes in Education and Evidence Codes as necessary to reflect changes in Penal Code. Continues registration of persons convicted of sexual offenses, sexual psychopaths, and mentally disordered sex offenders.

Enclosed herewith is a declaration of mailing hereof and a copy of the proposed referendum petition.

Very truly yours,

EVELLE J. YOUNGER  
Attorney General

  
GEORGE J. ROTH  
Deputy Attorney General

GJR:j sf  
cc: David A. Depew  
William A. Balam, Jr.

Following is a full and correct copy of the title and text of said act of the Legislature which the undersigned petition to have submitted to the electors of the State of California for their approval or rejection, to-wit:

CHAPTER 71  
OF THE STATUTES OF 1975

An act to amend Section 12912 of the Education Code, to amend Sections 972 and 985 of the Evidence Code, and to amend Sections 220, 286, 287, 288a and 290 of, to add Section 286.5 to, and to repeal Sections 269a, 269b, 286.1 and 288b of, the Penal Code, relating to sexual offenses...

The people of the State of California do enact as follows:

SECTION 1. Section 12912 of the Education Code is amended to read:

12912. "Sex offense" as used in Sections 13175, 13207, 13220.16, 13218, 13255, and 13586 means any one or more of the offenses listed below:

(a) Any offense defined in Section 266, 267, 285, 286, 288, 288a, 647a, subdivision 3 or 4 of Section 261, or subdivision (a) or (d) of Section 647 of the Penal Code.

(b) Any offense defined in former subdivision 5 of former Section 647 of the Penal Code repealed by Chapter 560 of the Statutes of 1961, or any offense defined in former subdivision 2 of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961 if the offense defined in such sections was committed prior to September 15, 1961, to the same extent that such an offense committed prior to such date was a sex offense for the purposes of this section prior to September 15, 1961.

(c) Any offense defined in Section 314 of the Penal Code committed on or after September 15, 1961.

(d) Any offense defined in former subdivision 1 of former Section 311 of the Penal Code repealed by Chapter 2147 of the Statutes of 1961 committed on or after September 7, 1955, and prior to September 15, 1961.

(e) Any offense involving lewd and lascivious conduct under Section 272 of the Penal Code committed on or after September 15, 1961.

(f) Any offense involving lewd and lascivious conduct under former Section 702 of the Welfare and Institutions Code repealed by Chapter 1616 of the Statutes of 1961 if such offense was committed prior to September 15, 1961, to the same extent that such an offense committed prior to such date was a sex offense for the purposes of this section prior to September 15, 1961.

(g) Any offense defined in Section 286 or 288a of the Penal Code prior to the effective date of the amendment of either section enacted at the 1975-76 Regular Session of the Legislature committed prior to the effective date of the amendment.

(h) Any attempt to commit any of the above-mentioned offenses.

(i) Any offense committed or attempted in any other state which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses.

SEC. 2. Section 972 of the Evidence Code is amended to read:

972. A married person does not have a privilege under this article in:

(a) A proceeding brought by or on behalf of one spouse against the other spouse.

(b) A proceeding to commit or otherwise place his spouse or his spouse's property, or both, under the control of another because of the spouse's alleged mental or physical condition.

(c) A proceeding brought by or on behalf of a spouse to establish his competence.

(d) A proceeding under the Juvenile Court Law, Chapter 2 (commencing with Section 500) of Part 1 of Division 2 of the Welfare and Institutions Code.

(e) A criminal proceeding in which one spouse is charged with:

(1) A crime against the person or property of the other spouse or of a child of either, whether committed before or during marriage.

(2) A crime against the person or property of a third person committed in the course of committing a crime against the person or property of the other spouse, whether committed before or during marriage.

(3) Bigamy.

(4) A crime defined by Section 270 or 270a of the Penal Code.



SEC. 3. Section 985 of the Evidence Code is amended to read:

935. There is no privilege under this article in a criminal proceeding in which one spouse is charged with:

(a) A crime committed at any time against the person or property of the other spouse or of a child of either.

(b) A crime committed at any time against the person or property of a third person committed in the course of committing a crime against the person or property of the other spouse.

(c) Bigamy.

(d) A crime defined by Section 270 or 270a of the Penal Code.

SEC. 4. Section 220 of the Penal Code is amended to read:

220. Every person who assaults another with intent to commit rape, sodomy, mayhem, robbery, or grand larceny, is punishable by imprisonment in the state prison not less than one year nor more than 20 years.

SEC. 5. Section 269a of the Penal Code is repealed.

SEC. 6. Section 269b of the Penal Code is repealed.

SEC. 7. Section 286 of the Penal Code is amended to read:

286. (a) Sodomy is sexual conduct consisting of contact between the penis of one person and the anus of another person.

(b) Any person who participates in an act of sodomy with another person who is under 18 years of age shall be punished by imprisonment in the state prison for a period of not more than 15 years or in a county jail for a period of not more than one year.

(c) Any person who participates in an act of sodomy with another person who is under 14 years of age and more than 10 years younger than he, or who has compelled the participation of another person in an act of sodomy by force, violence, duress, menace, or threat of great bodily harm, shall be punished by imprisonment in the state prison for a period of not less than three years.

(d) Any person who, while voluntarily acting in concert with another person, either personally or by aiding and abetting such other person, commits an act of sodomy by force or violence and against the will of the victim shall be punished by imprisonment in the state prison for a period of five years to life.

(e) Any person who participates in an act of sodomy with any person of any age while confined in any state prison, as defined in Section 4504, or in any local detention facility as defined in Section 6031.4, shall be punished by imprisonment in the state prison for a period of not more than five years, or in a county jail for a period of not more than one year.

SEC. 8. Section 236.1 of the Penal Code is repealed.

SEC. 8.5. Section 236.5 is added to the Penal Code, to read:

236.5. Any person who sexually assaults any animal protected by Section 597f for the purpose of arousing or gratifying the sexual desire of the person is guilty of a misdemeanor.

SEC. 9. Section 287 of the Penal Code is amended to read:

287. Any sexual penetration, however slight, is sufficient to complete the crime of sodomy.

SEC. 10. Section 238a of the Penal Code is amended to read:

238a. (a) Oral copulation is the act of copulating the mouth of one person with the sexual organ of another person.

(b) Any person who participates in an act of oral copulation with another person who is under 18 years of age shall be punished by imprisonment in the state prison for a period of not more than 15 years or in a county jail for a period of not more than one year.

(c) Any person who participates in an act of oral copulation with another person who is under 14 years of age and more than 10 years younger than he, or who has compelled the participation of another person in an act of oral copulation by force, violence, duress, menace, or threat of great bodily harm, shall be punished by imprisonment in the state prison for a period not less than three years.

(d) Any person who, while voluntarily acting in concert with another person, either personally or by aiding and abetting such other person, commits an act of oral copulation by force or violence and against the will of the victim shall be punished by imprisonment in the state prison for a period of five years to life.

(e) Any person who participates in an act of oral copulation while confined in any state prison, as defined in Section 4504 or in any local detention facility as defined in Section 6031.4, shall be punished by imprisonment in the state prison for a period of not more than five years, or in a county jail for a period of not more than one year.

SEC. 11. Section 288b of the Penal Code is repealed.

SEC. 12. Section 290 of the Penal Code is amended to read:

290. Any person who, since the first day of July, 1944, has been or is hereafter convicted in the State of California of the offense of assault with intent to commit rape, the infamous crime against nature, or sodomy under Section 220, or of any offense defined in Section 266, 267, 268, 285, 286, 288, 288a, subdivision 1 of Section 647a, subdivision 2 or 3 of Section 261, subdivision (a) or (d) of Section 647, or subdivision 1 or 2 of Section 314, or of any offense involving lewd and lascivious conduct under Section 272; or any person who since such date has been or is hereafter convicted of the attempt to commit any of the above-mentioned offenses; or any person who since such date or at any time hereafter is discharged or paroled from a penal institution where he was confined because of the commission or attempt to commit one of the above-mentioned offenses; or any person who since such date or at any time hereafter is determined to be a mentally disordered sex offender under the provisions of

Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code; or any person who has been since such date or is hereafter convicted in any other state of any offense which, if committed or attempted in this state, would have been punishable as one or more of the above-mentioned offenses shall within 30 days after the effective date of this section or within 30 days of his coming into any county or city, or city and county in which he resides or is temporarily domiciled for such length of time register with the chief of police of the city in which he resides or the sheriff of the county if he resides in an unincorporated area.

Any person who, after the first day of August, 1950, is discharged or paroled from a jail, prison, school, road camp, or other institution where he was confined because of the commission or attempt to commit one of the above-mentioned offenses or is released from a state hospital to which he was committed as a mentally disordered sex offender under the provisions of Article 1 (commencing with Section 6300) of Chapter 2 of Part 2 of Division 6 of the Welfare and Institutions Code shall, prior to such discharge, parole, or release, be informed of his duty to register under this section by the official in charge of the place of confinement or hospital and the official shall require the person to read and sign such form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him. The official in charge of the place of confinement or hospital shall obtain the address where the person expects to reside upon his discharge, parole, or release and shall report such address to the Department of Justice. The official in charge of the place of confinement or hospital shall give one copy of the form to the person, and shall send two copies to the Department of Justice, which, in turn, shall forward one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon his discharge, parole, or release.

Any person who after the first day of August, 1950, is convicted in the State of California of the commission or attempt to commit any of the above-mentioned offenses and who is released on probation or discharged upon payment of a fine shall, prior to such release or discharge, be informed of his duty to register under this section by the court in which he has been convicted and the court shall require the person to read and sign such form as may be required by the Department of Justice, stating that the duty of the person to register under this section has been explained to him. The court shall obtain the address where the person expects to reside upon his release or discharge and shall report within three days such address to the Department of Justice. The court shall give one copy of the form to the person, and shall send two copies to the Department of Justice, which, in turn, shall forward one copy to the appropriate law enforcement agency having local jurisdiction where the person expects to reside upon his discharge, parole, or release.

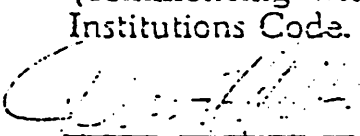
Such registration shall consist of (a) a statement in writing signed by such person, giving such information as may be required by the Department of Justice, and (b) the fingerprints and photograph of such person. Within three days thereafter the registering law enforcement agency shall forward such statement, fingerprints and photograph to the Department of Justice.

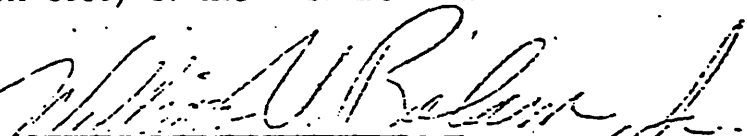
If any person required to register hereunder changes his residence address he shall inform, in writing within 10 days, the law enforcement agency with whom he last registered of his new address. The law enforcement agency shall, within three days after receipt of such information, forward it to the Department of Justice. The Department of Justice shall forward appropriate registration data to the law enforcement agency having local jurisdiction of the new place of residence.

Any person required to register under the provisions of this section who shall violate any of the provisions thereof is guilty of a misdemeanor.

The statements, photographs and fingerprints herein required shall not be open to inspection by the public or by any person other than a regularly employed peace or other law enforcement officer.

As used in this section "mentally disordered sex offender" includes any person who has been determined to be a sexual psychopath or a mentally disordered sex offender under any provision which upon the effective date of the amendment of this section enacted at the 1975-76 Regular Session of the Legislature is, or which prior to such date has been, contained in Division 6 (commencing with Section 6000) of the Welfare and Institutions Code.

  
DAVID A. DEPEW  
Proponent

  
WILLIAM V. BALAM, JR.  
Proponent