

THE CRIMES AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Crimes Act 1961 in relation to homosexual offences.

Introduction: The basic aims of this Bill are—

- (1) To make homosexual acts committed in private between consenting males 21 years or over no longer criminal offences.
- (2) To give greater protection to male children under 16 years from being sexually molested by males 21 or over.
- (3) To protect mentally ill persons of all ages.
- (4) To make homosexual and heterosexual acts of prostitution, procuring, importuning, and living off the earnings of prostitution equally unlawful.

Clause 1 relates to the Short Title.

Clause 2 increases the maximum term of imprisonment from 10 to 14 years when a male 21 or over molests a male child under 16.

Clause 3 makes homosexual acts between consenting adult males 21 years or over, done in private, no longer criminal offences.

This provision does not apply—

- (a) To any homosexual act to which one of the parties is a patient as described by the Mental Health Act 1969.
- (b) Where consent is obtained involuntarily.
- (c) To any indecent assault.

Clause 4 amends section 146 so that it covers the keeping of places of resort for homosexual acts between either females or males; and provides a definition of premises used as a place of resort for the commission of indecent acts. This prevents the raising of the defence either—

- (a) That the premises were only part of an independent building; or
- (b) That more than one person is required to be available for the commission of indecent acts for any premises to be a place of resort.

Clauses 5, 6 and 7 amend the meanings of prostitution and procuring so that they apply to both females and males.

Under the current law male prostitution is not an offence. The intention of these clauses is to make homosexual and heterosexual acts of prostitution, procuring, importuning, and living off the earnings of prostitution equally unlawful.

Clause 8 provides that certain prosecutions pending at the passing of this Act shall be withdrawn. The reasons for this clause are:

- (a) To ensure consistency between magistrates throughout New Zealand.
- (b) Because homosexual acts by their nature and by the nature of police investigation frequently come to light after a considerable time has lapsed since they were committed. It is only humanitarian that no prosecution should be brought for a stale offence.
- (c) Because the British Parliament thought that this was a proper measure to take when it enacted its law reform in 1967.

Mr V. S. Young

CRIMES AMENDMENT

ANALYSIS

Title	4. Keeping a place of resort for homosexual acts
Preamble	5. Living on the earnings of prostitution
1. Short Title	6. Procuring sexual intercourse or indecenty
2. Penalty for indecenty between man and boy	7. Prostitutes importuning passengers or being riotous
3. Indecencies between consenting males in private	8. Past offences

A BILL INTITULED

An Act to amend the law relating to homosexual offences

WHEREAS it seems desirable to bring the law relating to homosexual acts between adult males in private into line with
5 that of the United Kingdom of Great Britain and Northern
Ireland, Canada, South Australia, and many other countries;
and to remove the anomalous distinction between the law
relating to homosexual acts between males and females; And
10 whereas it is desirable to increase the protection afforded by
the law to young persons against homosexual molestation.

BE IT THEREFORE ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. **Short Title**—This Act may be cited as the Crimes
15 Amendment Act 1974 and shall be read together with and
deemed part of the Crimes Act 1961 (hereinafter referred to
as the principal Act).

No. 79—1

Price 5c

2. Penalty for indecency between man and boy—The principal Act is hereby amended by omitting from subsection (1) of section 140 the word “ten”, and substituting the word “fourteen”.

3. Indecencies between consenting males in private—The principal Act is hereby amended by inserting after section 140 the following section: 5

“140A. No male of or over the age of twenty-one years is liable under sections 141 and 142 of the principal Act, when any act therein is committed in private with or upon a consenting male of or over the age of twenty-one years except when either of the parties is a ‘patient’ within the meaning of the Mental Health Act 1969. 10

“Provided that any male under this section shall be liable if it is proved that the consent was obtained by force or threats or fear of bodily harm or by false and fraudulent representation as to the nature and the quality of the act.” 15

4. Keeping a place of resort for homosexual acts—The principal Act is hereby further amended by repealing section 146, and substituting the following section: 20

“146. (1) Every one is liable to imprisonment for a term not exceeding ten years who—

“(a) Keeps or manages, or acts or assists in the management of, any premises used as a place of resort for the commission of indecent acts between males or between females; or 25

“(b) Being the tenant, lessee, or occupier of any premises, knowingly permits the premises or any part thereof to be used as a place of resort for the commission of indecent acts between males or between females; 30
or

“(c) Being the lessor or landlord of any premises, or the agent of the lessor or landlord, lets the premises or any part thereof with the knowledge that the premises are to be used as a place of resort for the commission of indecent acts between males or between females, or that some part thereof is to be so used, or is wilfully a party to the continued use of the premises or any part thereof as a place of resort for the commission of such acts as aforesaid. 35 40

“(2) In this section, the term ‘premises’ means any house, room, set of rooms, or place of any kind whatever used for the purposes of resort for the commission of indecent acts, whether by one person or more.”

5 **5. Living on the earnings of prostitution**—Section 148 of principal Act is hereby amended:

(a) By inserting the words “whether male or female” after the word “person” in paragraph (a).

10 (b) By inserting the words “whether male or female” after the word “prostitute” in paragraph (b).

6. **Procuring sexual intercourse or indecency**—The principal Act is hereby further amended by repealing section 149, and substituting the following section:

15 “149. Every one is liable to imprisonment for a term not exceeding five years who, for gain or reward—

“ (1) Procures or agrees or offers to procure any woman or girl to have sexual intercourse with any male who is not her husband; or

20 “ (2) Notwithstanding anything in section 140A, procures or agrees or offers to procure any man or boy to commit any offence under section 140 or section 141 or section 142 of the principal Act.”

7. **Prostitutes importuning passengers or being riotous**—Section 46 of the Police Offences Act 1927 is hereby amended
25 by adding the words “whether male or female” after the word “prostitute”.

8. **Past Offences**—No male of or over the age of twenty-one years shall be liable to be convicted of any offence under section 141 or section 142 of the principal Act committed
30 before the enactment of this Act, if his offence is within section 140A of this Act after it comes into effect.