

## HOUSE OF REPRESENTATIVES

# Supplementary Order Paper

Wednesday, 6 November 1985

## HOMOSEXUAL LAW REFORM BILL

*Proposed Amendments*

Mr BRAYBROOKE, in Committee, to move the following amendments:

*Clause 1:* To omit subclause (2) (all the words in lines 6 and 7 on page 2), and substitute the following subclauses:

(2) This Act shall come into force on a date to be appointed by the Governor-General by Order in Council.

(3) No order shall be made under **subsection (2)** of this section unless and until the Governor-General is satisfied—

(a) That a Royal Commission has investigated and reported upon all aspects of homosexuality in New Zealand; and

(b) That, on a national referendum of persons eligible to vote in a general election of members for the House of Representatives, a majority of persons who voted were in favour of each of the following propositions:

(i) That homosexual conduct between consenting adults in private should not be a criminal offence;

(ii) That discrimination on grounds of sexual orientation should be made unlawful under the Human Rights Commission Act 1977.

*Proposed new Part IA:* To insert on page 5, after Part I, the following new Part:

## PART IA

## AMENDMENTS OF ARMED FORCES DISCIPLINE ACT 1971

**7A. Part to be read with Armed Forces Discipline Act 1971**—This Part of this Act shall be read together with and deemed part of the Armed Forces Discipline Act 1971\* (hereafter in this Part referred to as the principal Act).

\*1971, No. 53

Amendments: 1976, No. 13; 1980, No. 37; 1981, No. 48

**7B. Two sections (relating to cruel and disgraceful conduct) substituted in principal Act**—The principal Act is hereby amended by repealing section 42, and substituting the following sections:

“**42. Cruel conduct**—Every person subject to this Act commits an offence, and is liable to imprisonment for a term not exceeding 2 years, who behaves in a cruel manner towards any person, or towards any animal used for the purposes of the Armed Forces or kept in a state of captivity.

“**42A. Disgraceful and indecent conduct**—(1) Every person subject to this Act commits an offence, and is liable to imprisonment for a term not exceeding 3 years, who behaves in a disgraceful and indecent manner.

“(2) Without limiting the meaning of the term ‘disgraceful and indecent manner’ in subsection (1) of this section, every person behaves in a disgraceful and indecent manner for the purposes of that subsection if that person—

“(a) Being a male, commits an act of anal intercourse on any other male or permits any other male to commit such an act on him; or

“(b) Does any indecent act with or upon any other person of the same sex; or

“(c) Induces or permits any person of the same sex to do an indecent act with or upon him or her.

“(3) It is no defence to a charge under this section that the other person consented, or that the other person was not subject to this Act.”

*Proposed clauses 10 and 11: To add on page 6 the following clauses:*

**10. Armed Forces, Police, traffic officers, and officers of penal institutions**—Section 16 of the principal Act is hereby amended by inserting, after subsection (3), the following subsection:

“(3A) Nothing in subsection (1) or subsection (2) of section 15 of this Act shall apply in respect of anything done or omitted to be done in respect of the recruitment, treatment, or dismissal of any person as a member of the Armed Forces, or as a member of the Police, or as a traffic officer, or as an officer of a penal institution, on the ground of that person’s sexual orientation.”

**11. Educational establishments**—Section 26 of the principal Act is hereby amended by adding the following subsection:

“(4) Nothing in this section shall prevent the promulgation or enforcement of any rule of conduct in any primary or secondary educational institution prohibiting, or designed to prevent the occurrence of, sexual behaviour generally, or any particular type of sexual behaviour, within the educational institution.”

## EXPLANATORY NOTE

*Clause 1:* The amendments defer the commencement of the Bill until after a Royal Commission has inquired into and reported upon all aspects of homosexuality in New Zealand, and a referendum has been held on the 2 principal proposals of the Bill.

The new *Part IA* amends the Armed Forces Discipline Act 1971. The effect is to ensure that any changes in the civil law relating to homosexuality do not affect the military law relating to indecency.

The proposed *clause 10* would permit discrimination on grounds of sexual orientation in respect of employment in the Armed Forces and the Police, and employment as a traffic officer or an officer of a penal institution.

The proposed *clause 11* ensures that the proposed changes to the law relating to discrimination on grounds of sexual orientation do not affect any rules of conduct relating to sexual behaviour in primary and secondary schools.