

HOMOSEXUAL LAW REFORM

For the first time in an Australian Parliament a Bill proposing Homosexual Law Reform has been passed and become Law.

I think we all must extend our thanks for their hard work to all the Members of Parliament who spoke to the Bill. Even those who opposed it and read up on the subject so as to speak, because they have helped make clear what the issues really are in this area of the law.

The major opposing speeches were in the Legislative Council and given by Arthur Whyte, Boyd Dawkins, Dick Geddes, Gordon Gilfillan and Leslie Hart. I think their major opposition could have arisen from the prejudice amongst many people, particularly older people, against any deviation from long accepted community norms. This would have been reinforced by the lack of opportunity to meet and talk to homosexuals man to man.

There also seems to be a leaning amongst some Councillors (and Robin Millhouse, suprisingly enough) towards following the authoritarian, totalitorian beliefs spread by groups such as the Community Standards Association represented by such people as Dr. John Court, Dr. Bill Salter and Peter Daniels.

Led by Ren DeGaris, Murray Hill's final amended Bill (amended as a result of representations to him and Hon. Mr. Story by your Committee to make the procuring and soliciting clause very clear) was amended again to retain homosexual acts as criminal but providing a defense that if the persons charged could show they were over 21, consenting and acted in private this would be a good defense. Hon. Murray Hill, Dr. Springett, and Hon. Mr. Potter opposed this as being contrary to the purpose of the Bill, namely to free homosexuals from fear of Blackmail, intimidation and by de-criminalisation encourage them to co-operate with the police in tracking down more serious crimes e.g. Dr. Duncan's death.

Mr. DeGaris claimed that the police would not be interested in compiling evidence and bringing on a case knowing all the time that the Courts would throw it out because of the defense provisions.

Thus it seems a useless amendment with the only purpose being to try and please the Councillors whose leanings were towards Community Standards Organisation Authoritarianism.

The amended Bill then went to the Assembly where because Members face election every three years and the electorates are not as fantastically gerrymandered, one would expect thought to be given more closely to what informed modern public opinion favoured. This proved to be the case where Don Hopgood (A.L.P. Member for Mawson) gave a fantastically good speech and moved a very large number of very sensible amendments. He was ably supported by Dr. Tonkin (L.C.L. and L.M. Member for Bragg) who introduced the Bill. Other excellent speeches were given by the Attorney General, the Premier, Mr. Keneally (Member for Stuart, the area surrounding but not including Whyalla), Mr. Payne (Mitchell) and Terry McRae (Playford).

The speeches opposing the Bill were based on the supposed need for a Select Committee to study the question.

Dr. Eastick and Robin Millhouse were strong in this area. The Attorney General pointed out that Members had since July known of the Bill and there was masses of Reports and Literature which could have been studied since then.

From the very high quality and detail of the speeches for the amendments and Murray Hill and Dr. David Tonkins massive speeches, it would seem interested Members had indeed studied the subject in overwhelming detail. Thus there was the opportunity for others to either do the same or give fair and reasonable considerations to listening to the excellent speeches given after much research, and treat this material as the likely shape of any emerging select Committee report.

With the extensive revisions approved by (including proxies) 30 of the 47 Assembly Members and disapproved by none except 13, including proxies, who

wanted to delay the matter through a select Committee, and with three L.C.L. voting with the 30, it would seem the representatives of the people returned the Bill to the Council in the form deemed strongly desired by the Community acting through the popularly elected Chamber.

The Council then went on to show that they interpreted their obligation to be to stand clear of what was wanted by the people as shown by the Assembly vote. They did this by amending the age of adulthood back from 18 to 21 (a possible example of the generation gap).

I was proud to see that some Councillors showed that they were free of prejudice and had confidence in young South Australians to vote for 18 nevertheless. These were the Hon. Mr. Story, deputy leader of the L.C.L., and Hon. Dr. Springett. They were supported by the three A.L.P. Members.

Mr. DeGaris's amendment was again insisted upon and this vote was 10 in favour to 8. The 10 in favour were composed of the far flung Country Councillors who I am told vote "No" on all social questions and any progressive or modern change. As well as that the Hon. Sir Arthur Rymill and Hon. Mrs. Cooper voted "No". This was disappointing because neither of them were present at major speeches on the subject; neither of them spoke in the Council to give reasons for opposing Reform. Neither of them attended an L.C.L. Party Meeting which we arranged and brought along Anglican and Methodist Senior Ministers, two Senior Psychiatrists, the Professor of Law and others to answer questions.

I can only come to the unpleasant conclusion that they might have prejudged the issue, were not prepared to study or learn that their beliefs were either right or perhaps could be modified. One wonders whether their vote to continue stigmatising and criminalizing homosexuals came after careful study of Member's speeches and freely available literature or a feeling that the whole thing was not "nice" since Victorian times.

Some amendments from the Assembly were accepted such as reducing the maximum penalty for soliciting from three years to three months to bring it in line with heterosexual soliciting of females.

We then discussed the position with Assembly Members, particularly Don Hopgood of whether the Council's bluff should be called on the issue. Hugh Hudson, Minister of Education, and many others wanted to do this.

The one problem was that as the Bill originated in the Council all the Assembly could do was return it re-amended and request a meeting of House Managers to thrash out a compromise. The Council as Bill originator had the right to refuse to provide House Managers, thus the Bill would lapse.

We thus decided to accept the partly emasculated Council form in the Assembly for the following reasons:-

1. Failure to pass something would look publicly as a defeat for compassion and tolerance.
2. The new Act (now passed) is an improvement on the ridiculous previous Act.
3. The Crown would be most unlikely to institute Criminal proceedings when a defence is freely available. If they did they might achieve the defendant's suicide and his family's misery but not a conviction.
4. The two errors in the Bill; namely retaining criminality at all ages e.g. two adults of 40 who have lived together for 20 years are criminals; and the age being 21 compared with 17 for carnal knowledge of females. Apparently the view is that females of 17 or over can easily defend themselves against male advances but boys of 20 or 19 are so weak that they are highly susceptible!

These strange amendments stick out so much and are so obvious that the Public, Community leaders and legislators can see how silly they are.

5. The election on March 3rd will include 10 legislative councillors, 7 of whom opposed the Assembly version of the Bill, thus a private members effort to just change these inconsistencies will have a better chance then.

Also, next year the Mitchell Committee will report on this and many other matters. It is difficult to imagine a highly intelligent expert Committee not recommending that the Council insisted amendments are cleared away.

If you would like to read the speeches of M.P.s you can buy Hansard Oct. 10-12, and Oct. 17-19 at the Government Printers at 10c each. Note the high quality, deep research of the "Yes" vote speakers compared to the homely "No" speeches based on C.S.O. and an appeal to fear and ultra-conservatism, and we know insufficient research.

Soon we will get the final version of the Bill and will print it together with comments on what each section will mean in practice.

6. The Act we have got is a compromise, but is a significant victory for reasonableness and compassion. It has forced some M.P.s to do their research. It is a victory. It has shown politicians that it is an issue which will not lose them support and so far the ceilings have not fallen in on them.

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- The President.