

HISTORICAL HOMOSEXUAL CONVICTIONS — APOLOGY AND EXPUNGEMENT

Statement

HON SUE ELLERY (South Metropolitan — Leader of the House) [6.20 pm]: Today in the other place the Premier made a statement of apology to the Western Australian gay community for the hurt caused through convictions related to historical homosexual consensual acts. The Premier's statement was about doing what we can, in these more enlightened times, to right the wrongs of the past. In due course, this house will receive from the other place the government's Homosexual Convictions Expungement Bill 2017, which will establish a standalone legislative framework to allow an eligible person to apply for the expungement of certain historical homosexual convictions.

Just as the bill itself is long overdue, so too is an apology for the hurt caused by those convictions and the active discrimination and prejudice that flowed from those unjust laws. There are those who seek to ignore the darker deeds of our history and who do not understand the value of an apology to those who have been wronged by past governments. But if we wish to celebrate to achievements of our forebears—to own those achievements as though they were our own—then as a mature society, we must also own the wrongs that were done, acknowledge the damage the wrongs caused, and apologise for those who were hurt.

The Premier, on behalf of the government, said sorry to those who were vilified, marginalised and prosecuted by laws born out of fear and prejudice. For decades in Western Australia, those laws against homosexual acts were used to shame homosexual men, to deny their human rights, and to deny their humanity. Such was the shame these laws caused that, even decades later, many remain silent. I share the Premier's sense of deep sadness that many victims of these unjust laws are not alive today to hear this apology. I hope their families and friends can take some comfort from the Premier's words and from my words now.

It is only in our recent history that homosexuality was deemed a crime. Homosexuality was not effectively decriminalised until 1990. It was not until 2002 that an act of Parliament finally removed discrimination against gay and lesbian people from all Western Australian laws. It amended the Equal Opportunity Act so that it became unlawful to discriminate against someone on the basis of their sexual orientation. However, we still have a situation in which hundreds of Western Australians have unfairly borne the stigma of having a criminal record for consensual acts that are no longer considered a crime.

The expunging of these convictions is not just symbolic; many people are still living with the real consequences of these convictions today. We all know that a criminal conviction on a person's record affects their ability to travel and to gain some types of employment. These laws turned law-abiding citizens into criminals due only to their sexual orientation. These laws were, in the words of our Premier, "state-sanctioned discrimination".

It is unfortunate that these laws were also the basis upon which much of current homophobia was built. Western Australians should not have to carry the stigma of a criminal record for consensual acts that are no longer considered a crime. I hope that this apology and our expungement legislation will allow our LGBTI community to heal from a past time of cruel discrimination and mistreatment.

Madam President, words matter. It is the right thing to acknowledge a past wrong; it is the right thing to expunge past unjust convictions; and it is the right thing to say sorry so that those affected can continue the healing process they need. On behalf of the government, I join the Premier in saying: I am sorry for the unjust laws passed in our houses of Parliament, and the real and deep pain they caused to so many of our fellow Western Australians.

Statement

HON ALISON XAMON (North Metropolitan) [6.24 pm]: I also rise tonight on behalf of the Greens to acknowledge the momentous event that occurred in the Assembly today—the apology to those men who in the past were subject to convictions for homosexuality. A number of members from this place made a point of attending, and I also noted there were many people in attendance in the public gallery. I recognised a number of their faces—older members of the LGBTIQ community—some of whom I know from GRAI, which is an important organisation that advocates for the unique needs of older LGBTIQ Australians.

The Greens have a long and proud history of standing up for the human rights of LGBTIQ people. We recognise that nobody should be subject to discrimination or unequal treatment simply because of their sexual orientation, simply because of who they love. Acceptance and, indeed, celebration of people of diverse sexuality is essential for genuine social justice and equality, and the Greens have consistently called for the repeal of all federal and state laws that discriminate on the grounds of sexuality. That is why it is my fervent hope that, sooner rather than later, we will also remove the discriminatory elements of our existing federal marriage laws.

Making homosexuality illegal, as it was, is, as has been said, state-sanctioned discrimination, and there can be no question that this discrimination, this denial of private, loving and consensual relationships, resulted in deep distress and harm for not only those who were subject to arrest, detention and convictions, but also the many other

people who lived with the fear of the possibility that this could happen to them just for being who they were. It must have been an unspeakable burden and fear to have to live with.

Let us hope that this apology and the legislation that was introduced in the other place today goes some way to further removing discrimination and in some way beginning the healing for the injustices of the past, because it is important that we understand what these convictions meant. These convictions, as has been said, impacted on people's job prospects. It impacted, and continues to impact, on people's capacity to travel overseas. It required people to disclose their convictions over and over again. Far too often, it resulted in people being outed for the first time, often leading to alienation from their families and friends.

Victoria, New South Wales, the Australian Capital Territory, Queensland, Tasmania and South Australia have all either enacted legislation or are considering proposed legislation for expunging historic homosexual convictions, so it is beyond time that WA followed the lead of other states. Laws against homosexuality in WA first changed with the Law Reform (Decriminalisation of Sodomy) Act 1989, but it was not until 2002 that all discrimination against homosexuality was removed from the Criminal Code, with the equalising of the age of consent. It is important, then, that we have legislation that expunges men charged up until 2002.

The Greens have also called for any expungement process to include the destruction of fingerprints and any other evidence or records held in order to facilitate that discriminatory legislation. I note the calls that have come from members of the LGBTIQ community for compensation for those people who were previously subject to conviction. It is something we need to reflect on. I also note that there will be many more people whose criminal records will not be expunged in the way that we would anticipate because they were convicted for a number of other offences that may not be readily identifiable as being related to their homosexuality, but we know that they were associated with such offences as loitering with intent and, potentially, even public indecency. I am concerned that these offences will not get picked up. We need to recognise that there are still many people who carry criminal records due to offences that may not be readily identified as pertaining to homosexuality in the first instance.

I really want to thank the government for this apology. I also want to thank the opposition parties for their bipartisan support, which they demonstrated in the other place. I am proud to represent the Greens as we add to this political consensus. Today was really important in historical terms and I think it is a significant step towards a more inclusive and equal society, because part of being able to move forward together is also acknowledging those deeds in our past that have divided us. I look forward to being able to scrutinise the legislation and for us to debate this more fully, but today I wish to acknowledge my sorrow to those members of the community who were subject to convictions for homosexuality in the past and to add my apology on behalf of the Greens.