

From: **John Frame**

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To: **Acting Committee Secretary
Legal Affairs and Community Safety Committee**
Parliament House
George Street
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Date: 4th June 2017

Re: **submission re "Criminal Law (Historical Homosexual Convictions Expungement) Bill 2017"**

I am writing as an individual, but one who has two decades of experience in organising and lobbying within the community in favour of equal rights without discrimination for all citizens, including those who are same-sex attracted and/or gender diverse (Lesbian, Gay, Bisexual, Transgender, Intersex).

When I first heard the news of the apology read by Premier Palaszczuk, and of the introduction of this Bill, I immediately presumed that, in the interests of fairness and anti-discrimination, the government would have been intending to allow all men with historical convictions for consenting homosexual activity to apply for expungement of their conviction, if that past sexual activity is one which would no longer be illegal if it happened today.

All of the media reports also presumed this was to be the case.

So I was very disappointed when I read Hansard for 11th May 2017 and discovered that the Bill is only going to apply to offences which took place prior to 19th January 1991, and also only for offences where all those involved were aged at least 18 at the time.

- **There is no supportable reason to exclude from expungement any person whose offence involved consenting sexual activity and which was committed between 19th January 1991 and 15th September 2016 under the intentionally highly discriminatory "Sodomy Law", and for whom all persons involved were aged at least 16.**
- **Similarly there is no supportable reason to exclude from expungement any person whose offence involved consenting sexual activity and which was committed before 19th January 1991 (but after 1976) and for whom all persons involved were aged at least 16. (1976 is stated as the year that the age of consent for all non-homosexual sexual activity was reduced from 17 to 16.)**

It is clear that the date “19th January 1991” was chosen because it was the date of commencement of “Criminal Code And Another Act Amendment Act No. 93 of 1990” <http://queerradio.org/AOCact93of1990.htm> which was passed on 21st November 1990, and which merely **partially** decriminalised homosexual sexual activity in Queensland, because it also introduced a “sodomy law” – a higher minimum age of 18 for anal intercourse, with a penalty of up to 14 years gaol for any offender. That intentionally discriminatory law should never have been enacted.

It is vital to note that Parliament’s own PCJC Report No.2 of 1990

http://queerradio.org/PCJC_law_reform_report_October_1990.pdf had recommended (based on considerable expert evidence in the July & August 1990 Public Hearings) specifically against a higher minimum age for any gender or any particular sexual activity. The wording of Recommendation 7 of that Report is:

“THE COMMITTEE RECOMMENDS THAT THE AGE OF CONSENT FOR HOMOSEXUAL ACTS IN ACCORDANCE WITH THE PRINCIPLES OF SEXUAL EQUALITY AND ANTI-DISCRIMINATION BE THE SAME FOR MALES AS IT IS FOR FEMALES, IRRESPECTIVE OF WHETHER THE SEXUAL ACT IS HETEROSEXUAL OR HOMOSEXUAL. (THIS PRINCIPLE IS HIGHLIGHTED IN POINT ONE ON PAGE 60 OF THE COMMISSION’S REPORT.)”

I am advised that the only reason why Goss Labor chose to ignore the PCJC Recommendation 7 was that they wanted to placate several of their own MP’s who were strongly opposed to any decriminalisation of sex between men. The higher minimum age for anal intercourse was a ploy which played on the myths that older homosexuals prey on youth, and that young men can be “turned” through experiencing homosexual sexual activity. The Attorney-General of that time, Dean Wells, will be able to give you an honest opinion of the truth of the history of the decision making process.

That bad decision in November 1990 caused great harm for nearly 26 years to the health and well-being of countless Queensland youth, until it was finally removed on 15th September 2016 in a highly laudable, and sincerely worded Health Bill, with wonderful and moving speeches from Labor MP’s, which also drew overwhelming bipartisan support.

If the Government is to remain true to its stated aim of righting past wrongs against LGBTI Queenslanders, then I believe it must amend this Bill to allow applications for expungement of historic convictions for consenting homosexual offences which were committed between 1976 and 15th September 2016, and which involved persons aged at least 16 – and for similar offences which occurred prior to 1976 which involved persons aged at least 17.

I welcome any enquiry for further information.

Yours sincerely,

John Frame