




Speech By
Hon. Yvette D'Ath

MEMBER FOR REDCLIFFE

Record of Proceedings, 29 November 2016

MINISTERIAL STATEMENT

**Justice Kiefel, Appointment as Chief Justice of the High Court of Australia;
Queensland Law Reform Commission, Report**

 **Hon. YM D'ATH** (Redcliffe—ALP) (Attorney-General and Minister for Justice and Minister for Training and Skills) (10.24 am): I start by joining the Premier in congratulating Justice Susan Kiefel on her appointment to the highest office in the highest court of this country as the first female Chief Justice of the High Court of Australia. I look forward to the day that we do not need to acknowledge the fact it is females taking up these appointments in our highest courts, in our parliaments, in our governments, in our boardrooms and in our executive positions and that it becomes the norm. Of course, Justice Kiefel is there because of her distinguished career on the bench and in the legal profession. Her journey to that position is inspirational. I hope that she will inspire many female law students and women in the legal profession to aim high. I congratulate Justice Kiefel on her appointment.

Today, I am pleased to table the Queensland Law Reform Commission's report, titled *Expunging criminal convictions for historical gay sex offences*.

Tabled paper: Queensland Law Reform Commission: Report No. 74—Expunging criminal convictions for historical gay sex offences, August 2016 [\[2143\]](#).

In Queensland, consensual adult male homosexual activity was decriminalised in Queensland in 1991 in recognition that this type of private, consensual activity is not a matter of concern for our criminal justice system. This was unquestionably a significant reform. There has since been a call in Queensland and elsewhere for complementary law reform to ensure that members of our community are not burdened by the stigma caused by such criminal convictions and charges.

This reform is an expungement scheme. The legal position in Queensland is complicated. In the past, the scope of the repealed Criminal Code offences may have been applied to both the consensual and non-consensual acts. I thank the commission for its report and for considering the challenges and practicalities of a scheme. I acknowledge the extensive public consultation process undertaken to obtain the views of stakeholders. Likewise, I want to formally thank all respondents who have contributed to the development of the report.

The report recommends the creation of a legislative expungement framework to enable eligible persons to apply under an administrative scheme for expungement on a case-by-case basis. We are committed to progressing the necessary legislation to establish an expungement scheme, which is why I am pleased to inform the House that, in addition to tabling the QLRC report, today, I am releasing a draft bill for consultation representing the government's genuine commitment to provide justice to those people who have waited so long. I am writing to the opposition and the crossbench members as part of that consultation and hope that we can have support across this chamber in our efforts to address this historic wrong.

The proposed scheme enables expungement applications for certain eligible offences to be made to and decided by the director-general of the Department of Justice and Attorney-General. Applications for expungement will be considered against available official records and appropriate criteria. The draft

bill reflects to the greatest extent the commission's recommendations. However, there are some aspects that depart from the report. Rather than the expungement scheme applying only to historical repealed offences under the Criminal Code, which were concerned with sexual activity that were described as acts of gross indecency, the government's proposed scheme will allow persons convicted or charged with certain historical public morality offences to also apply for expungement. These cover scenarios where the alleged immorality, namely the behaviour that the charge was grounded on, was based on consensual homosexual actions. As recommended by the commission, the proposed expungement scheme is concerned with historical consensual homosexual activity and will not apply to contemporary offending.

I look forward to receiving feedback on the proposed expungement scheme, with the legislation to be introduced in the first part of 2017. This is a chance for some closure for Queenslanders who continue to be hurt by the legacy of decades-old discrimination—wrongs inflicted by a past regime in a Queensland that is very different from the modern state that we enjoy today. As a parliament, we should apologise to those Queenslanders for these historic wrongs and for the hurt that followed them in the decades since. I am proud that the Palaszczuk government is delivering this important reform.