LAUNCH OF THE MELBOURNE CHAPTER OF PRIDE-IN-LAW
18 MAY 2023

SPEECH BY DR MATT COLLINS AM KC

Thank you for inviting me to speak tonight, it is a privilege and an honour.

My pronouns are he/him.

I acknowledge that we are meeting on the traditional lands of the peoples of the Kulin nation and pay respects to First Nations elders.

Male homosexuality was decriminalised in this state by the Hamer Liberal government 42 years ago, on 1 March 1981.[1]

In the course of his second reading speech for the decriminalisation legislation, Haddon Storey QC, who was the Attorney-General and a member of the Victorian Bar—outlined the then government's rationale. He said:[2]

> The Government does not accept sexual relationships between persons of the same sex as an acceptable alternative lifestyle. Nothing in the Bill is intended to give any support to such attitudes.

A number of parliamentarians spoke against decriminalisation. Murray Hamilton MLC said it was no more than the obsession of 'a small number of homosexuals'. Obviously not one for hyperbole, he warned that decriminalisation was 'the greatest single step towards self-destruction than can be taken by any civilized society'.[3]

He wasn't alone. The National Party opposed decriminalisation as a bloc, on the basis that homosexual activity was 'repugnant', 'completely unnatural' and 'not carried out in the animal world'.[4]

The preamble to the decriminalisation legislation[5] made it plain that while it might no longer be a criminal offence, homosexuality was still to be considered gravely immoral.

The anxiety of the state parliament to condemn LGBTIQA+ Victorians, even as it passed the first tentative legislation to protect us, would be laughable, but for the harm those kinds of attitudes have caused. And that those same attitudes echo even today, a point I want to come back to.

But just reflect on this for a minute: the stigmatisation of our communities was and is (of course) cultural, but it also has a structural, legal dimension to it. Those who argued for decriminalisation in the 1970s and before—for the most basic recognition of our humanity—risked coming to this building as persons accused of a felony.

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[1] *Crimes (Sexual Offences) Act 1980* (Vic).
[2] Hansard, Legislative Council, 18 November 1980, 2874. There were no corresponding offences for sexual acts between females.
[3] Hansard, Legislative Council, 3 December 1980, 4119.
[4] Hansard, Legislative Assembly, 11 December 1980, 5080.
[5] *Crimes (Sexual Offences) Act 1980* (Vic).

The maximum penalty for consensual sex between two adult men at the time the *Crimes Act 1958* came into law was 15 years imprisonment.[6] To put that into perspective, at that time, the penalty for a man having sex with a girl aged between 10 and 16 was ten years.[7]

We have just been privileged to hear from our Chief Justice—someone I have known for many years as a strong ally of our communities, and who has championed reforms in this Court. Thank you for your speech, Chief Justice, it conveys an unmistakable message that all members of our communities in our profession are welcome here, entitled to announce our appearances and be heard.

We are also honoured by the attendance of the Chief Justice of the Federal Circuit and Family Court of Australia, and many other members of the judiciary.

Shadow-Attorney General, the Hon. Michael O'Brien MP, in a sense the successor in time to Haddon Storey QC, and also a proud member of the Victorian Bar, thank you for being here. It is very meaningful.

We are also honoured to have with us today my friends and colleagues, the Director of Public Prosecutions, Kerri Judd KC, and the regulator of our profession, the Legal Services Commissioner, Fiona McLeay.

Lawyers love counterfactuals.

How about this one: in a world without the progress made in the lifetimes of many of us here, a number of us might have been in the dock of the Banco court, facing a potential prison term, prosecuted by Kerri, perhaps in a jury trial before Justice Croucher, with Fiona monitoring the case with a view to striking us off for bringing the profession into disrepute!

So to be here, tonight, to celebrate the launch of the Melbourne chapter of Pride in Law, at no discernible risk of being taken down to the cells, is a privilege that warrants, I think, a little reflection on the progress we have made and the challenges we continue to face.

Decriminalisation now seems a little like ancient history, although it happened in living memory for many of us. But let me move forward a little in time.

I did my articles in this city in 1993. At that time, I knew of no—and I mean no—LGBTIQA+ role models in our profession. I knew of no out judges, or silks, or partners of law firms.

In that same year, the firm in which I was articled introduced an equal opportunity policy. It was completely silent as to LBGTIQA+ equality. We simply did not exist as groups worthy of recognition.

We were invisible in this profession.

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[6] *Crimes Act 1958* (Vic) (as passed) s 68(2).

[7] *Crimes Act 1958* (Vic) (as passed) s 48(1). The maximum penalty was 15 years if the offender was a schoolmaster or teacher and the girl his pupil.

But, by the early 1990s, on the back of the decriminalisation movement and the unity forged in our response to the HIV/AIDS pandemic, progress was such that a critical mass of young professionals of my generation were able, for the first time, to bring their whole selves to work—albeit at some risk and often considerable cost.

Brave, more senior members of our profession were emboldened to come out publicly.

I hope it would not be possible, today for any member of our profession to say that they could not name an out judge, or silk, or partner of a law firm.

That is remarkable progress, even if we are yet to see a member of our communities occupy Government House, or the Premier's chair in the Legislative Assembly, or serve as a head of jurisdiction in any of our courts either federally or in this state.

For many of us, the defining battle in the life of our communities was another one with a structural, legal dimension to it: the marriage equality debate.

We should remember that debate when reflecting on what First Nations peoples are going through currently and will go through over the coming months.

The non binding postal survey process was one we should not have had to endure, and the damage it did to vulnerable Australians would be difficult to overstate, but it was another battle that galvanised and unified our communities, as we fought not for a political right, but for the most basic tenet underlying our justice system, equality before the law.

Since the marriage equality debate, the fight for LGBTIQA+ equality has shifted, and it continues. There is still much to be done.

Two months ago, to the day, neo-Nazis occupied the steps of state parliament in a despicable display targeting the trans and gender diverse community. Last weekend they were back again, this time proclaiming white supremacy.

Violent activists in this city and in Sydney have this year forced the cancellation of events intended to celebrate LGBTIQA+ inclusion.

Less than a month ago, a former leader of the federal Labor Party, once a whisker away from the Prime Ministership, said publicly that when heterosexual men think about what gay men do in the privacy of their own homes, they want to vomit.

And at our Bar, an institution I was honoured to lead, just last August, one of my (our) colleagues posted homophobic notices in the lifts of Owen Dixon Chambers, echoing the language heard in the Parliament by those opposed to the decriminalisation of homosexuality 42 years ago.

This time, though, the apparent point was that our communities, who have fought so hard for such agonisingly slow progress, and who still face daily impediments to true equality, and are the targets of neo-Nazis and others, are now somehow a threat, taking work that rightfully belongs to others.

But, within 24 hours, we were able to turn that very distressing situation around, with a joyous show of unity at the Essoign Club, likely the largest spontaneous such event in its history. The tears of those who had been so triggered by the events of one evening were salved as they were embraced by the broad community of the Bar the following day.

So, progress may be slow, it is not uniform, and there is still much to do, but it is also tangible, as tonight's event demonstrates. And that brings me to Pride in Law.

I have always felt—as beneficiaries of the sacrifices made by those who came before us—that we have a responsibility to be the custodians of past progress, and the drivers of further positive change for the benefit of those who come after us.

It is an obligation I think we owe particularly acutely because we are members of the legal profession. As lawyers, we have the skills to make a difference through the representation of our clients at the individual level, as so many here tonight have done through their practices. But we also have the skills to advocate publicly for the changes necessary to drive us further towards equality.

Positive changes, like those that I have highlighted, have been the result of three things: (a) greater visibility of our communities; (b) our unity and support for one another; and (c) the judicious exercise of that stock-in-trade of our profession: patient, respectful and persuasive advocacy.

And so it is right that those features—visibility, unity and advocacy—are the core objectives of Pride in Law.

It warms my heart to look around the room and see so many members of our communities, and our allies, and the most senior and respected members of our broader profession, in this magnificent room, here to launch this profession-wide organisation of and for those communities.

I congratulate Pride in Law's national directors, Dean Clifford Jones and Julia Paino, Victorian President Vanessa Bacchetti, and the other members of the Board and Victorian chapter committee here tonight. I am delighted to join in this launch of the Melbourne chapter of Pride in Law, an organisation that I am sure will go from strength to strength.