RACIAL DISCRIMINATION ACT — AMENDMENTS

Motion

MS M.M. QUIRK (Girrawheen) [4.00 pm]: I move —

> That this house expresses its deep regret that the Barnett government —
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> (a) unlike the governments of New South Wales and Victoria, failed to defend the interests of the residents of this the most multicultural state in the country by lodging a submission opposing the proposal by the commonwealth to repeal section 18C of the Racial Discrimination Act 1975; and
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> (b) failed to publicly acknowledge that the proposed changes threaten the social cohesion and wellbeing of Western Australia's culturally and religiously diverse communities.

Last Friday, 2 May 2014, the New South Wales and Victorian governments jointly issued a press release. In it, the Victorian Minister for Multicultural Affairs and Citizenship, Matthew Guy, MP, and the New South Wales Minister for Citizenship and Communities, Victor Dominello, MP, announced that they had lodged formal submissions opposing the mooted changes to the protections against racial vilification. As most members in the house are aware, these changes to the Racial Discrimination Act 1975 were proposed by the commonwealth Attorney-General. In that statement, the ministers noted —

> We consider it vital that the Commonwealth does not weaken protections in place against racial vilification.
>
> The proposed changes threaten the social cohesion and well-being of not just our states' culturally and religiously diverse communities, but also the wider Australian community.

They also noted the practical and symbolic importance of these protections for Aboriginal, multicultural and multi-faith communities. Likewise, they considered that the removal of the protections would undermine the socially cohesive and inclusive communities that those governments had worked hard to foster. Unfortunately, the full submissions have not yet been made public, so we are reliant on what is contained in the joint press release. However, we can see from what is in the press release that the sentiments and remarks expressed are far from radical and, in fact, reflect the enormous amount of public discourse and disquiet felt by many since the federal Attorney-General, George Brandis, released an exposure draft on the Freedom of Speech (Repeal of S. 18C) Bill 2014 in late March. Submissions to the Attorney-General on this exposure draft closed on 30 April. This motion is to express our concern that the Western Australian government did not see fit to follow the lead of New South Wales and Victoria by making a submission. It is not as though this issue took the government unawares. On 1 April this year I asked the Premier in this chamber the following question without notice 193 —

> I refer to the comments of the Premier's New South Wales colleague, —

At that time it was Barry O'Farrell —

> last week on proposed changes to the Racial Discrimination Act, when he observed —
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> > … we must not lower our defences against the evil of racial or religious intolerance," …
> >
> > "Bigotry should never be sanctioned, whether intentionally or unintentionally.
>
> (1) Does the Premier intend to exercise the same leadership as Mr O'Farrell and publicly express his views on the risks associated with the federal government diluting race and religious hate laws?
>
> (2) Can the Premier explain the rationale for his own government reviewing —

I was then interrupted by the member for Pilbara, but the question continued —

> the operations of its own Equal Opportunity Commission and abolishing the substantive equality unit charged with ensuring fair and equal service delivery by the public sector?

I suspect that we might know about the fate of the Equal Opportunity Commission tomorrow afternoon after the budget is brought down. However, in the present context, I will refer to the Premier's answer to the first part of the question. He said —

> I think all members of this house and I would hope all members of the Western Australian community—certainly, the vast majority—would condemn racial vilification. The pursuit of someone, the degrading comments and the like have no place in a modern Australia. However, there again can be

> a limit. If someone makes just an offhand comment, it should not be necessarily interpreted as vilification.

That does not affirm that the Premier intended to exercise the same level of outspokenness or leadership as the former Premier of New South Wales, but I make the point that the Premier is certainly aware of the issue and I believe that he should have exercised some leadership and made a formal submission on behalf of the Western Australian government.

It seems to me that if there was a real and tangible commitment to our culturally and linguistically diverse communities, the WA government would have exercised leadership by standing up to Canberra and making a formal submission. It could and should have exercised the same level of leadership as New South Wales and Victoria. Inexplicably, it has failed to do so. I believe it is disrespectful to the many Western Australians who must confront racism on an almost daily basis that no submission was in fact made.

Actions speak louder than words, and failure to act speaks volumes. In this context, we need to be mindful of the cultural and ethnic diversity in Western Australia or, as the Minister for Police likes to say, the bucketload of diversity. That diversity is far greater than that in other states and territories in the commonwealth. According to the 2011 census, WA had the highest proportion of people born overseas, at 31 per cent compared with the national figure of 21 per cent. Perth also had the highest proportion in all Australian capital cities of people born overseas at 35 per cent. The state received a larger proportion of skilled migrants—59 per cent—compared with the national average. WA is considered to be the preferred destination of skilled migrants and has received 22 per cent—almost one-quarter—of Australia's skilled visa holders. According to the demographic information on the website of the Office of Multicultural Interests, WA is home to people from more than 200 countries who speak approximately 270 languages and dialects, which obviously includes Aboriginal and Torres Strait Islander languages, and Western Australians follow more than 130 different religious faiths. People from the United Kingdom, Europe, South-East Asia, the Middle East and, more recently, South Asia and Africa, have made Western Australia their home and, I think, by and large have created a harmonious environment that speaks of diversity.

Even if providing all those protections to our multicultural residents is not considered important in terms of social justice and equity, I believe there are also sound economic reasons for acting and exercising some leadership. Migration and diversity have given WA a competitive edge in a globalised world. Migrants create ties that connect their new home with their old. They create unique opportunities and have contributed to the development of our economy and social harmony. All Western Australians benefit from our state's diversity. If Western Australia is considered a haven for racists and bigots, skilled migrants will consider going elsewhere, possibly Victoria or New South Wales.

Vic Alhadeff, chair of the New South Wales Community Relations Commission, quoted in *The Sydney Morning Herald* on 28 April, summarised the issue pertaining to section 18C very well. The article is headed "Why it's important to have your say on the proposed changes to the Racial Discrimination Act". He says in part —

> The safeguards provided by the Racial Discrimination Act have been in place for almost 20 years, including during the 11 years of the Howard government, giving targets of hate speech a peaceful and legal avenue of redress. These laws have helped to resolve hundreds of cases that would otherwise have been left to fester and to degrade social cohesion.
>
> The laws protect all Australians against racial vilification, not only minority groups, and are one of the few inhibitors we possess against the racism which underpins many overseas conflicts.
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> The proposed changes, if passed, will send a dangerous signal that hate speech is sanctioned as a form of freedom of speech, that bigotry has a place in our society. While we accept this is not the Government's intention, that will be the effect, and those so inclined will be encouraged to take bigotry into the public domain. Even in situations of unambiguous abuse, the victim will be required to prove that the abuse may incite a third party to racial hatred—an extremely difficult test to satisfy.
>
> Those who bring diversity to our country will be more susceptible to racist taunts aimed at their culture, their tradition, their faith, their skin colour. They will be rendered vulnerable to hate speech.
>
> Our government has a duty to make racism socially unacceptable and to provide the targets of racism with a legal course of action. The proposed changes will take our society in the opposite direction—at great cost to us all.

I think that is an excellent exposition of why a formal articulation should have been made by the state government to the federal government opposing the changes.

The obvious question I think we are left with on the federal government's proposals is: if it is not broken, why fix it? I have queried a range of people and organisations about what they consider to be the rationale of Attorney-General Brandis and why he has such a fervour for these amendments. To a person, no-one can readily provide an answer or articulate why these changes are necessary—necessary as a matter of urgency. It is quite perplexing that after six years of the Liberal Party being out of government, these amendments are considered to have high legislative priority. In a now infamous exchange Senator Nova Peris, the first Indigenous female senator, asked Senator Brandis —

> Won't removing 18C facilitate vilification by bigots?

He responded —

> People do have a right to be bigots, you know. In a free country, people do have rights to say things that other people find offensive or insulting or bigoted.

That is the position we face. This is the proponent of these changes to the laws and I think on this side of the house we regard those sentiments as dangerous.

The Racial Discrimination Act first came in in 1975. For those who are younger than I am, we perhaps need to have a discussion about the background of those laws. I refer to one of Gough Whitlam's many tomes, *The Whitlam Government 1972 to 1975*. I have to say that the book that I am quoting from has a book leaf inside that states "From the library of Edward Gough Whitlam". I do not know how I have ended up with it, but it is not by way of theft! He says at page 499 —

> It was the concern of my Government that Australia should show a clean face to the world in terms of racial matters. In a world increasingly hostile to any form of discrimination, Australia's racial discrimination in migration policy and in the internal administration of government, business and even trade unions had emerged as a cause of concern at home and negative reactions abroad, particularly in South East Asia. My Government gave first priority to measures to redress injustices against Aboriginal
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> Australians which had spanned the two centuries since European settlement. Our next priority was to ensure that Australia was racially tolerant in immigration policies and supplied the ethnic population with adequate community services.

Further on he talks about the racist campaign that was run against Al Grassby in the Riverina and he opines that the reaction to the mooted changes to migration law led some racists to embark upon a fairly robust and willing campaign in Riverina whereby Al Grassby lost his seat. He goes on to say —

> As Prime Minister, I was deeply concerned that Australia had failed to ratify the UN Convention on the Elimination of All Forms of Racial Discrimination which I have already mentioned in the chapters on International Affairs and Aborigines. The UN General Assembly had adopted this Convention on 7 March 1966. Australia had signed it on 13 October 1966. It had entered into force with the accession or ratification of 27 states by 4 January 1969. When my Government was elected the Convention had been ratified by 87 countries but still not by Australia.

The convention outlawed all forms of racial discrimination on the grounds of race, colour, ethnic background, place of birth or descent. It also involved a pledge under Article 7 to —

> adopt immediate and effective measures, particularly in the fields of teaching, education, culture and information, with a view to combating prejudices which lead to racial discrimination and to promoting understanding, tolerance and friendship among nations and racial or ethnical groups, as well as to propagating the purposes and principles of the Charter of the United Nations, the Universal Declaration of Human Rights, the United Nations Declaration on the Elimination of All Forms of Racial Discrimination, and this Convention.
>
> My Government determined that Australia should join the majority of the countries of the world in outlawing racial discrimination. It was obvious from the Riverina campaign of 1974 that we should serve notice to the world that Australia had turned its back on racism at home and racism overseas such as practised in South Africa.
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> The Bill was introduced into the Senate on 31 October 1974, following the appointment of Murphy —

That is Lionel Murphy —

> as a justice of the High Court of Australia. Kep Enderby was appointed Attorney-General and took the carriage of the Bill in the House of Representatives. It was introduced there on 13 February 1975 and debated on 6 March and 8 and 9 April. In the Senate it was significantly amended by the exclusion of

> safeguards which we had sought in relation to prohibiting racial incitements against groups as distinct from individuals. The Bill finally passed both Houses on 4 June 1975.

One final quote —

> The high objectives of the Racial Discrimination Act, the culmination of years of effort, I spelled out at the modest ceremony which launched the Office of the Commissioner for Community Relations at the headquarters of the Department of the Attorney-General on 31 October 1975:
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> The new Act writes it firmly into our laws that Australia is in reality a multicultural nation, in which the linguistic and cultural heritage of the Aboriginal people and of peoples from all parts of the world can find an honoured place. Programs of community education and development flowing from that Act will ensure this reality is translated into practical measures affecting all areas of our national life.

I think it is worth remembering where it all started, and how much I think we have all grown since that legislation was first passed in 1975.

But I think we need to ask whether conditions are different now from what they were in 1975 when this legislation was passed. Is there still the need for this sort of legislation? Does racism and racial vilification still exist? I think the short answer is yes. I am indebted to Daryl Tan for his research, and the submission made by the recently established Racial and Ethnic Equality Labor group. It is a very enthusiastic and active group within our party, and I want to commend its efforts in this context. The submission REEL sent to the federal Attorney-General contained a heading "The prevalence and impact of racism and race-based speech in Australia", under which reads —

> In 2013 the AHRC received 500 complaints under the RDA. Of those complaints racial hatred was found in 192, representing a 59% increase on the 2012 figures. This is compared to the 63 complaints made under the RDA in the first 9 months after s 18C was introduced. It is clear that racism manifest in racially motivated speech is an issue that is growing—not shrinking—in prevalence.
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> The Challenging Racism Project interviewed more than 12,500 Australians over the course of 12 years on racism in Australia. 84.4% of participants believed that there is racial prejudice in Australia, and 85.6% agreed that something should be done to minimise or fight racism in Australia. Of particular concern was the statistic that approximately one in ten Australians believe that some races are naturally inferior to others, and that racial groups should be separated.
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> Harmful expression can have a significant impact on an individual, in terms of feelings of humiliation, isolation and dignitary affront. Speech that portrays individuals are inferior in some way are often absorbed by the victims, which further harm's their view of themselves.
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> Studies have shown that there is a correlation between racism and poor mental health. Individuals who have experienced repeated racism have a significantly higher chance of having high or very high psychological distress. Furthermore, it has been found that racism experienced in public places such as in shopping centres and on public transport is associated with very high mental harm.
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> An example of this can be seen from the coverage of the 2005 Cronulla riots. A Middle Eastern youth said of the riots:
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> > *"[Y]ou've been raised to be Australian. I mean, you carry the Australian flag. When you go to sport events and all that, you're happy to be Australian and all that. And all of a sudden people reject you. 'Go home!' They shout your names. Like, "Go home, you Middle Eastern Lebs," or whatever. "Go home". I mean, that's a shock to us. "Go home'. I mean, like, you get cut inside your heart, you know. Like you feel like you're not part of society no more."*

I think, although simply put, that is a very graphic description of the hurt that flows from racist taunts.

If the changes proposed by the federal Attorney-General are implemented, what redress, if any, will victims of racism in our community have? That brings me to the point: Why has the Barnett government failed to more formally protest the mooted changes? It is complacency or pure indolence, or does it demonstrate something possibly more disturbing; that is, an inability to empathise with the many in our community who experience racism firsthand, as I said earlier, often on a daily basis? Make no mistake, members, frequent exposure to racism has tangible and adverse health effects, and impacts on victims both psychologically and physically. Alternatively, is the Barnett government's failure to act against these changes giving tacit approval and the green light to bigots, racists and the intolerant in our community?

I have attended a number of community forums discussing these changes. One such forum was convened by the federal member for Perth, Hon Alannah MacTiernan, in early April. It was held at the Hellenic Centre, and the

federal shadow minister for citizenship and multiculturalism, Michelle Rowland, was present, as were a number of ethnic community representatives from a wide number of communities. Those key ethnic communities certainly rejected the Abbott government's plans to weaken the Racial Discrimination Act. It was very evident at the forum that both Aboriginal and migrant groups felt very strongly about the proposals to water down the Racial Discrimination Act. They regard the act as a very important part of fostering a harmonious multicultural society, and believe it would be very destructive of that harmony if section 18C were to be repealed. They concluded that dealing with racism is very much a work in progress, as it is around the world, and that by weakening this legislation we will not move forward. After the forum a joint communique was issued by the leaders, and I will take the liberty of reading that. According to my notes, it reads —

> Last night, leaders of community organisations representing diverse cultures and faiths met to discuss proposed changes to the Racial Discrimination Act. The leaders below agreed to the following statement:
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> The Racial Discrimination Act was introduced to protect Australians from the racist comments and to promote harmony in Australia's multicultural community.
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> The introduction of the additional protections contained in section 18C has proved to be a vital tool in reducing the incidence of hate-speech.
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> Many Australians are deeply concerned by recent evidence of racist incidents across Australia, whether it is abuse directed at someone because they're speaking a language other than English, or because of the colour of their skin, or the faith they follow.

The important point made in the communique is that —

> We need our leaders to reinforce the message that racism is not acceptable and we unreservedly condemn it.

They went on to state —

> The proposed changes to the Racial Discrimination Act send the wrong message.
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> Insulting, offending or humiliating a person because of their race leads to increased discord in our community, and serious personal consequences for victims of discrimination.
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> It is behaviour that should be condemned, not condoned.
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> We need laws that preserve freedom from fear, not ones that promote freedom to hate.
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> We call on the Federal government to reconsider its proposed changes to the Racial Discrimination Act and ensure that the Act continues to protect Australian citizens from hate-speech and to promote harmony.

As I said, that communique called on our leaders to reinforce the message that racism is not acceptable, and we unreservedly condemn it. The Barnett government has failed to answer that call. This failure to do so is a failure of leadership.

My last words are a paragraph from a covering letter that the Ethnic Communities Council of Western Australia sent with its submission on the changes to the Racial Discrimination Act. I commend the Ethnic Communities Council for the excellent work it does in representing ethnic communities in Western Australia. As the council has not received government funding for a number of years, it is my fervent hope that it wins lotto tomorrow and finally gets funded again, as it certainly was under Labor. The covering letter says in its final paragraph —

> ECCWA hence opposes any changes to the RDA 1975 and accordingly recommends immediate withdrawal of the proposed reforms as they do not take into account any evidence based research, consultation or valid justification. It is causing undue stress to the various sections of the community in particular in Western Australia which can truly be labelled as *"state of migrants"* as it has got a higher proportion of migrants who call Australia home, a home which was built on the foundation of "Advance Fair Australia" that we all take pride in.

DR A.D. BUTI (Armadale) [4.31 pm]: I also rise to speak to this motion moved by the member for Girrawheen. It is an incredibly important motion lamenting the fact that the state government has shown a lack of leadership in expressing its concerns about the proposal by the federal Attorney-General to amend section 18C of the Racial Discrimination Act. As I look across the chamber, I see the members for Bunbury and North West Central. The member for Swan Hills was in the chamber a short time ago. If their childhoods were similar to mine, they will understand how racism hurts. It hurts enormously. The member for Carine may also have experienced it as a

child. Words do matter. Anyone who says that words do not hurt has not experienced the hurt that words can cause.

I want to relay some personal experiences in my contribution to this motion. I have with me an important quote that appeared in *The Age* in 1997. It is stated on page 16 —

> Racism denies people the fundamental human right to be judged by their character, by what is inside. This is why it is not easy to experience a lifetime of racial abuse, be constantly reminded of it and yet be expected to simply ignore it.

It is not easy, especially as a child, to be subjected to racism. That is why we need the protection of the law.

It is also interesting that the Minister for Sport and Recreation is in the house. He is well aware of the contribution that the Australian Football League has made to outlaw racism in sport. How has it done that? Through legislation. The AFL has done it through anti-vilification legislation and the rules of the AFL. Anyone who says that laws will not change people's behaviour is wrong, because the AFL, which I will document shortly, is a classic example of an organisation that has rules or laws that influence the way people behave and also protects people from being subjected to racial hatred.

I am glad the member for Swan Hills has come back into the chamber. When I was a child growing up in Armadale, there were not many Italians. There were not that many Italians in my school, Kingsley Primary School. I know the name suggests it is in the suburb of Kingsley but it is actually in Armadale. Day after day I endured taunting and derogatory remarks that Italians are dirty, that they do not shower and that they eat funny food. I was told, "Go back to your own country", even though I was born in Australia, which is quite interesting. That hurt as a child. I had no redress for that. The only redress I had was to cry and go home and tell my parents. There was nothing they could do.

In 1975, Gough Whitlam enacted the Racial Discrimination Act. When it was enacted, Gough Whitlam said —

> The date, 31 October 1975, is a historic benchmark in the history of Australia. For the first time the nation solemnly affirmed its opposition to all forms of racial discrimination and established machinery to deal with it. The Act, inadequate as it is in many respects, is still the best guarantee that Australians have ever had that the dark forces of bigotry and prejudice which have prevailed so often in the past will never again be able to exercise influences far greater than their numbers in the community.

That was in 1975. The Racial Discrimination Act was enacted for Australia to comply with its obligation under the International Convention on the Elimination of All Forms of Racial Discrimination. The particular section we are dealing with, section 18C of the Racial Discrimination Act, was enacted under the Racial Hatred Act 1995 under the Keating government. That came about as a result of a number of inquiries that talked about racism. The racism that I experienced as a child was to such a degree that I was ashamed to be Italian. I did not want to be Italian because it made me different and it made me the subject of constant taunting at school because I was of Italian ancestry.

Imagine what it was like for Indigenous people. It was much worse, and it still prevails today. To earn extra money while at university, I used to take a group of Aboriginal TAFE students on various recreational activities. On one occasion we arranged to meet at a tenpin bowling alley in Cannington. I arrived a bit late and the students were still outside. I said, "I've already paid. I did say you could go in to start utilising the lanes." They said, "Tony, there's no way we could walk in there because we're scared that we're going to be subjected to stares and nasty calls." These were grown adults who were scared to enter a bowling alley because they were scared to be looked at and to receive taunts. That is totally unacceptable in Australia. We have got to the stage in Australia of a good legal framework to try to protect people from the harm that words can cause. What does the Attorney-General want to do? The Attorney-General wants to wind that back. How dare the Attorney-General get up in federal Parliament and say, "You have a right to be a bigot"! That is absolutely appalling. I am sure that members on the other side would not agree with that. That is why it is disappointing that this government has not shown leadership in forwarding a submission to the federal government about the changes being espoused by the Attorney-General that it is okay to be a bigot. What signal does that send to bigots and racists in Australia? It amounts to open slather: "You can say what you want because I'm going to change the law to ensure that you won't be subjected to any civil action."

We know this all came about after a famous case involving Andrew Bolt. Andrew Bolt was found to have vilified a number of Aboriginal people. The federal Attorney-General, when he was the shadow Attorney-General, said that if the Liberal Party formed government he would bring in changes to section 18C of the Racial Discrimination Act. As the member for Girrawheen stated, after six years in opposition one of the first legislative provisions the current federal government decided it was so important to amend is legislation that will make it okay to be a bigot! How appalling. I hope that after this debate government members will actually write to the

Attorney-General, a member of their own party, to express dismay that he would stand in federal Parliament and state that in Australia a person has a right to be a bigot. A person may have a legal right to be a bigot, but this goes beyond that. What about the morality of it? A person should not have a legal right to be a bigot. Words hurt.

I will refer to a book written by Stephen Carter, a professor at Yale University, called *Civility*. In America, there is a constitutional right to freedom of speech. Professor Carter is talking about a 1971 case, Cohen v California, when he says —

> … in which the Supreme Court overturned the conviction of a young man who wore on his jacket the benign legend F —

Members would understand what that meant —

> THE DRAFT. The case arose as the public language grew vulgar. The nineteenth and early twentieth centuries offered a tradition of public insults that were witty, pointed, occasionally cruel, but not obscene or particularly offensive.

As time has gone on, that has changed. Stephen Carter went on to say that, unfortunately, due to the American Constitution, that case was decided correctly in the sense that the bloke had a constitutional right to express that on his shirt. But this is important: when the founding fathers of the US Constitution were talking about freedom of speech, they were actually thinking about the normal rough-and-tumble world of public argument and the heated disagreements that would occur, but that we would generally share a broad set of values. It was based on the model by John Locke, who is basically a political folk hero of the Libertarian movement. However, that was not seen to be freedom to insult people and to be vulgar. On page 70 of *Civility* Carter talks about the power of language and states —

> Yet we should recognize the terrible damage that free speech can do if people are unwilling to adhere to the basic precept of civility; that we must sometimes rein in our own impulses—including our impulses to speak hurtful words—for the sake of those who are making the democratic journey with us. The Proverb tells us, "Death and life are in the power of the tongue" (Proverbs 18:21). The implication is that the choice of how to use the tongue, for good or for evil, is ours.

The federal Attorney-General is saying that it is okay to use the tongue in an evil manner and to be derogatory, just because somebody is of a different racial or ethnic background. I cannot believe, in this day and age, that we have a federal Attorney-General seeking to rewrite Australia's racial vilification laws because he believes we have the right to be a bigot.

Let us be clear about what is in this legislation. We are referring to section 18C of the Racial Discrimination Act 1975, which was inserted by the Racial Hatred Act 1995. That section provides that it is unlawful to offend, insult, humiliate or intimidate another person or group of people because of the race, colour or national or ethnic origin of the other person. The first element is that the act has to be done in public; secondly, the act must be reasonably likely to insult, humiliate or intimidate. Therefore, the act cannot be trivial. One of the arguments is that even little jokes will be caught up under this section; that is rubbish. Most jokes that have some sort of racial element to them are not captured by the current legislation. There is also the defence that any comments made were made in good faith; if they have been made in good faith, that is a defence. The act also has to be reasonably likely to cause insult. That is obviously an objective test, but what is important is the question of whether the act is reasonably likely to hurt a person of that ethnic group. That is what is important, and that is what will change under the Brandis amendments.

If one is a member of a minority, it may be more difficult to deal with a racist insult than if one is a member of a majority. Most British migrants I know, for instance—I am married to a woman of British background—are not insulted by the word "Pom"; there may be some who are, but generally they are not.

Mr F.M. Logan interjected.

Dr A.D. BUTI: Yes, member for Cockburn!

But generally they are not insulted by the word "Pom" because it is usually said in a more jovial manner, and the British population is a dominant section of our demographic fabric. If, however, one is a member of a historical minority group such as Indigenous Australians—in earlier times, Italian immigrants and Croatians; more recently, Asians; and even more recently, people of Islamic faith—there is more of an emotional capacity to be affected by racial elements than there is for the more dominant populations, such as those with British ancestry. It is what is "reasonable" for that given group.

The Attorney-General seeks to repeal section 18C and also sections 18B, 18D and 18E. As a result, an act will be illegal only if someone seeks to vilify someone. The Attorney-General's exposure draft seeks to insert into the legislation —

> (1) It is unlawful for a person to do an act otherwise than in private, if:
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> (a) the act is reasonably likely:
>
> (i) to vilify another person or a group of persons; or
>
> (ii) to intimidate another person or a group of persons, and
>
> (b) the act is done because of the race, colour or national or ethnic origin of that person or that group of persons.
>
> (2) For the purposes of this section:
>
> (a) vilify means to incite hatred against a person or a group of persons;
>
> (b) intimidate means to cause fear or physical harm:
>
> (i) to a person; or
>
> (ii) to the property of a person; or
>
> (iii) to the members of a group of persons.

Do members see how narrowly the Attorney-General has defined a contravention under this proposed section? It gets worse —

> (3) Whether an act is reasonably likely to have the effect specified in sub-section (1)(a) is to be determined by the standards of an ordinary reasonable member of the Australian community, not by the standards of any particular group within the Australian community.

I am sure the members for Bunbury, North West Central, Swan Hills and Carine would have had different views as to what racial discrimination was when they were kids than the general Australian population did. How dare the Attorney-General tell us that the standard is going to be determined by the Australian population, who may never have been subjected to racial vilification. Go and ask Italian groups, Croatian groups, Vietnamese groups, Arab groups or Aboriginal groups—they are the ones who have been subjected to vilification, so it is up to them to decide whether it is hurtful, not to some nebulous, invisible Australian community. George Brandis cannot sit in his office in Canberra or in his barrister's chambers in Brisbane, where he has never been subjected to racism, and tell me whether what someone has said to me is racist or not! How dare he do that. But that is what he is seeking to do with this amendment. It continues —

> (4) This section does not apply to words, sounds, images or writing spoken, broadcast, published or otherwise communicated in the course of participating in the public discussion of any political, social, cultural, religious, artistic, academic or scientific matter.

In other words, basically anything anyone says will fall under that exemption. He has removed the ability for people to be protected; we should all be protected from being offended or insulted because of our racial backgrounds. Why should we not, as a civilised Australian society, have legal protection?

[Member's time extended.]

Dr A.D. BUTI: He has also narrowed the parameters of vilification, which is to be determined by some nebulous Australian population—the "majority", whatever that is—who would never have been to the Arab communities in Thornlie, the Aboriginal communities in parts of Armadale, or the large Italian communities in Balcatta. He is not thinking of those areas when he talks about the normal, ordinary Australian. He then goes on to enumerate other exemptions in broadcasting, academic and scientific work et cetera.

Andrew Bolt, the darling of the political right, was recently interviewed by a journalist and said that if someone was a Holocaust denier, Australians should be big enough to laugh about it. I beg your pardon! Tell the grandson of a Jew who died in the Holocaust that he should laugh when someone denies that there was such a thing as the Holocaust. We should be grown up and mature enough to laugh about the denial of the Holocaust? What planet is Andrew Bolt on? I am not Jewish, but I would be incredibly hurt by a Holocaust denier. Imagine if any one of us were Jewish and our parents or grandparents were killed under the Nazi regime during the Holocaust, and someone came out and told us that it was rubbish and never happened. Under this change, Holocaust deniers are free to say what they want. They can deny that the Holocaust existed. How can anyone in Australia today agree that that is a good thing?

I will now move on to the issue of whether the law can change behaviour. I refer to a study conducted by a number of academics, including Sean Gorman from Curtin University. Sean Gorman has written and researched —

Mr V.A. Catania: He's a very good man.

Dr A.D. BUTI: He is a very good man. He wrote the book *Brotherboys—The Story of Jim and Phillip Krakouer*. It is a great book about Jimmy and Phil Krakouer. He has done much research in the area of racial vilification in sport, and he has been part of an Australian research project investigating the Australian Football League's racial and religious vilification laws. The interesting thing about those laws is that what used to be rule 30 of the AFL rules, which is now rule 35, basically states —

> No person subject to these Rules shall act towards or speak to any other person in a manner, or engage in any other conduct which threatens, disparages, vilifies or insults another person … on the basis of that person's race, religion, colour, descent or national or ethnic origin.

If we go back 30, 40 or 50 years, racism was rife on the football field. Doug Nicholls, who I think was Governor of South Australia at one stage, had to change Victorian Football League clubs because the trainer would not rub him down because he had black skin. Players were constantly vilified if they were of Aboriginal descent or even from other races. We do not have that today. The odd incident happens, but it is incredibly rare. Of course, education has played a part, but do not tell me that rule 30, which is now rule 35, has not played a part. I used to manage a number of AFL footballers, and 90 per cent of them were Indigenous. One of them was Scott Chisholm, who was subjected to racial vilification by "Spider" Everett from St Kilda Football Club. I would challenge the federal Attorney-General to ask Scott Chisholm if he was not hurt by the slurs that were directed to him by "Spider" Everett. He was incredibly affected by that, but, thankfully, we had the anti–racial vilification code in the AFL that allowed a solution to that behaviour to take place.

If we listen to Brandis, he says that rules or laws should not be used to try to prevent people engaging in racist speech because they will still have those views. Of course, they may have those views. We will never be able to stop everyone's evil thoughts—I think racism is evil—but we can prevent and protect someone from being the recipient and the victim of those evil thoughts. Hopefully, over time, through a legislative framework and education, maybe the person's views will change, because most AFL footballers today would not think about being racist on the football field. Some will, but most will not. If they do transgress, they will be hit by the rules. There is still a long way to go, as Sean Gorman and his fellow collaborators in this research have outlined. I refer to the *Journal of Australian Indigenous Issues*—June 2012, volume 15, issue 2—*The Politics of Participation: Current Perspectives on Indigenous and Multicultural Sports Studies*, if anyone wishes to read it. That edition was edited by Sean Gorman and Keir Reeves. I suggest that members have a look at that.

As I come towards the final part of my contribution to this debate, I urge people on the other side to go to their Premier, their Minister for Citizenship and Multicultural Interests and their Minister for Aboriginal Affairs and urge the government of Western Australia to protest to the federal government about the Attorney-General's moves to bring in this new piece of legislation.

While I have a few minutes left, I think we really need to understand what Brandis is trying to do. He is trying to create a culture in Australia that basically says that we should be tolerant of bigots and that there will be no legal protection from a bigot and no legal protection from being hurt. An eight-year-old or 10-year-old Croatian or Italian child at primary school will just have to endure those racial taunts, and cry and go home and tell mum and dad. That is all they will be able to do, because the Attorney-General, the number one lawmaker of the nation, has said, "It's okay to be a bigot. You have a right to be a bigot."

Mr J. Norberger: What are you going to do to that child—send them to prison?

Dr A.D. BUTI: I beg your pardon?

Mr J. Norberger: What are you going to do? I notice that you've ignored me. I'm of German origin. Trust me; I was teased a fair bit at school and I'll talk about that when I get up to speak. So I agree with what you said, that people can hurt and offend you and —

Dr A.D. BUTI: And where does the member think the 10-year-old who vilifies another 10-year-old gets that message from?

Mr J. Norberger: Hang on a minute. You are using a 10-year-old as an example. What is your solution for that 10-year-old? Should that 10-year-old go to the Children's Court?

Several members interjected.

Dr A.D. BUTI: No, I am not saying that a 10-year-old should be prosecuted.

Mr J. Norberger: You said that you need legal protection from that 10-year-old who offends another 10-year-old. That's what you're saying. You're saying that that 10-year-old has the right to be legally protected against —

Dr A.D. BUTI: The member for Joondalup tells me about his experiences, but does he know what? When I was 10, I was vilified by a teacher on a number of occasions because of my racial background.

Mr J. Norberger: But you didn't use that example. You used that example of a 10-year-old child and you said that another 10-year-old child deserves legal protection —

Dr A.D. BUTI: Madam Acting Speaker, I did not ask for interjections. I said that as a 10-year-old I was vilified. I did not say that I was vilified by another 10-year-old. Do not verbal me! Go to *Hansard* and tell me where I said I was vilified by a 10-year-old!

Mr J. Norberger: Righto; calm down. Have a Snickers. Keep going.

Dr A.D. BUTI: This matter is very important.

Several members interjected.

The ACTING SPEAKER (Ms L.L. Baker): Member for Mandurah! Members, the member on his feet has the call. You have been asked not to interject. He is not accepting interjections. There has been enough commentary from the peanut gallery as well.

Dr A.D. BUTI: It is interesting that I get an interjection from the member for Joondalup about 26 minutes into my speech—a throwaway line in which he verbals me, and he thinks that is okay. We will be interested to hear his contribution.

The fact is that it is not okay to be a bigot in Australia, and it is not okay for the Attorney-General to seek to bring in legislation that will allow bigotry and racism to become more prevalent in Australia, because it will; it will become more prevalent in Australia. Children who go to school and vilify other children do that because they have heard it from their parents. That is where it comes from. If the Attorney-General is saying that it is okay to be a bigot, that is open slather for parents to tell their children what they think of people from a certain racial group. That is what that does. If the member for Joondalup does not think that that is an alarming trend, that is up to him. Good on him. He may be made of stronger stuff than I was, and maybe the member for North West Central was, as were the members for Bunbury and Swan Hills. It is not okay, and we as a state should be doing everything we can to send a message to the federal Attorney-General that it is not okay to be a bigot; it is not okay to be racist.

The laws are working very well, and a fine example is found in the AFL, which has a legislative framework that provides protection from vilification for not only indigenous footballers, but also other footballers from different racial groups. Racism is evil. The power of the tongue is incredibly powerful, and we should not have legislation with the legal definition of "vilification" being a person who is physically threatened. As I mentioned, and I am sure the member for Southern River will realise, the word is incredibly powerful and we should always be careful how we use it. We hope that the state government will show some leadership in this very important public policy area.

MR V.A. CATANIA (North West Central) [5.01 pm]: It was great to hear the member for Armadale speak. I can relate to a lot of the challenges that he would have faced at school, being of Italian descent like me, as well as the member for Bunbury, the member for Carine, the member for Joondalup and the member for Swan Hills. Anyone who had a funny or a long name that was very hard to pronounce would have been vilified in some way back then.

Dr K.D. Hames: Or if a person was short or tall.

Mr V.A. CATANIA: If a person was short or tall, or if they had a big nose or big ears, too. The fact is that a person growing up who had an Italian name and Italian grandparents was automatically categorised as a wog or a ding. A person was teased because they perhaps looked a little different, they spoke a little differently or their food was a little bit different. I do not know if anyone has seen *The Wog Boy* but it is a classic film. Although it was about Greeks, it had some Italians in it, and it was about a young kid going to school and laying out his salami and his rolls on the school playground and being called, "Wog boy, wog boy, wog boy." Those people who teased him back then are now paying a fortune to eat the same food that we grew up with, so there is some sort of justice.

It is something that is now seen as funny, but growing up it did hurt when a person was called things that perhaps one did not understand. The hard part was working out why I was different. I played cricket, football, soccer and tennis. I played all sports, so how could I be badged or put into one category because I am a wog, and that I

should play just soccer? That lack of understanding probably helped me to not take it to heart. As I grow older I can see how school and sports have changed in terms of the way that one would sledge an opponent; it has taken a 180-degree turn over the past 10 years. The member for Armadale made some pretty good points about how important it is to have legislative protection that really changes how a culture behaves, whether it is in a sporting club or a society. We need to do that, and the AFL has proved it definitely works with how players react on the footy field. If we compare what happens now with what went on 10 to 15 years ago, things are totally different now.

I do not accept the comments made by the member for Girrawheen and the member for Armadale about the lack of leadership on this side of the house. When I quickly do the sums, there are quite a few ethnics on this side of the house. We would not accept anything that would cause an increase in racial vilification in the community. I do not support the member for Girrawheen or the member for Armadale when they criticise the Premier or this side of government. Although I support what they say, I will not move across to their side and support this motion because a few years ago the former member for Ballajura, who unfortunately passed away, was racially vilified by the Leader of the Opposition. On 10 April 2008 the headline on the front page of *The West Australian* stated —

> The Ethnic Branch Stacker v The Premier's Poodle

It quotes the now Leader of the Opposition as having said —

> 'John D'Orazio is well known as ... the worst ethnic branch stacker in the history of the Labor Party in WA.

That was the Leader of the Opposition's comment about a colleague of mine who happened to be an Italian. That was the attitude taken by the Leader of the Opposition, which generally reflects on others in the Labor Party. There have also been some well-known comments made by Senators-elect over the past few months about individuals in the Labor Party. Before the Labor Party can stand and criticise this side of the house, it is important that people read this article from 2008, which really highlights what the Leader of the Opposition thinks about ethnics. My father was a member of the Labor Party; he was a member of this house.

Dr A.D. Buti: So were you.

Mr V.A. CATANIA: And I was too.

Mr F.M. Logan interjected.

Mr V.A. CATANIA: The member just shot his argument in the foot. The member for Girrawheen spoke about Gough Whitlam and the role he played. One of the reasons my father entered the Labor Party was because of Gough Whitlam's stance, especially with my father being from Italy and coming here as a young boy. However, those comments by the Leader of the Opposition and by other members in the Labor Party really make a mockery of what Gough Whitlam stood for, and that is one of the reasons I will not stand on that side of the chamber. I cannot stand behind someone who is leading the opposition and does not believe in how ethnics should be involved in the Labor Party.

The article in *The West Australian* of 10 April 2008 reads —

> ALP at war over bid by D'Orazio to rejoin party
>
> Mark McGowan declared open war on Ballajura MP John D'Orazio yesterday accusing him of being "the worst ethnic branch stacker" in WA Labor's history but in the process the Education Minister sparked a major crisis for Alan Carpenter as he battles to prevent the dumped police minister from rejoining the party.

Mark McGowan, now the Leader of the Opposition, is quoted in the article —

> "John D'Orazio is well known … as the worst ethnic branch stacker in the history of the Labor Party in Western Australia and I'm glad that the stain has now been removed."
>
> …
>
> Mr D'Orazio has also garnered strong support for his bid to re-enter the party from factional colleagues Indigenous Affairs Minister Michelle Roberts and Swan Hills MP Jaye Radisich, who described Mr McGowan's comments yesterday as "disappointing".

The article goes on to give John D'Orazio's response —

> "What he's —

That is Mr McGowan —

> said, and obviously through McGowan and the Premier as well, is that you need to be Anglo-Saxon to be a member of the Labor Party. What an attack on all the ethnics in the party," Mr D'Orazio said.

Those comments might have been taken out of context, but the fact that a senior minister at the time, who is now the opposition leader for the Labor Party, made those comments and never withdrew them or said sorry shows us that perhaps a person does have to be Anglo-Saxon to be in the party. I would have thought that, in this day and age, in this chamber and in this state, regardless of what political party a person belongs to, to have any member of Parliament, especially a minister or a leader, have those thoughts or describe someone based on the way they look—their colour, their facial features—or where they were born is an absolute disgrace. It goes against everything I stand for. I grew up with the Labor Party around me. A lot of ethnics were involved in the Labor Party, but after the Leader of the Opposition's comment, many ethnics who believed in the Labor Party left the party. I do not think the damage can ever be repaired. On this side of the house, we have proved ourselves by winning seats that were traditionally held by Labor and have a high number of members from the Italian community, such as the electorate of Balcatta. That just shows that one of the reasons the Labor Party lost the seat of Balcatta was the remarks made by the opposition leader.

Mr F.M. Logan interjected.

Mr V.A. CATANIA: It actually went back to the old electorate of Balcatta. The member should get his history right; it has been held by Labor for a long time. It is important that members think about how we, as members of Parliament, need to perform and how our leaders need to perform. It is important that we show leadership—every single one of us in this chamber and in the other house. When the opposition leader makes comments that clearly show he has a distaste for ethnics, it is —

Mr F.M. Logan interjected.

Mr V.A. CATANIA: I will reply to the member for Cockburn: he was talking about branch stackers, but why did he need to label them as "ethnic"? There are plenty of branch stackers in the Labor Party who are not ethnic and who may be Anglo-Saxon. People might say —

Mr F.M. Logan interjected.

Mr V.A. CATANIA: That is not an excuse. We had a disgraceful debate today about the member for Vasse. I do not think we need to label anyone when trying to make a point.

Several members interjected.

The ACTING SPEAKER (Mr N.W. Morton): Order, members! Member for North West Central, if you could direct your comments to the Chair, that would be appreciated.

Mr V.A. CATANIA: I just find it disgusting that the Leader of the Opposition is not here to remember what he said. I would love for him to stand up one day and apologise to the Parliament, to John D'Orazio's family and to the Labor Party for tarnishing its members as ethnic haters. That is what that article represents to me and that is what it represented to a lot of members of the Labor Party at the time who have now left the party. If the Leader of the Opposition comes into the house and votes for this motion, I want everyone to look at him and say, "What a hypocrite! He is sitting on the Labor side of the house for political expediency, yet has forgotten what he called the late John D'Orazio on 10 April 2008". The damage he caused to ethnics involved in political parties and in Parliament is a disgrace.

I believe that what the member for Armadale said earlier was spot-on. I do understand and I know that the member for Bunbury has also grown up in similar circumstances. I admire what the member for Armadale said but, please, I think he needs to get a copy of *Hansard* and put it in front of the Leader of the Opposition and tell him to apologise for what he said, because that was absolutely disgraceful behaviour by someone who wants to be the Premier of Western Australia.

MR C.J. TALLENTIRE (Gosnells) [5.14 pm]: I rise to speak to this motion and give it my full support. Section 18C of the Racial Discrimination Act 1975 should not be deleted. We should not seek to weaken our legislation that protects people from prejudice, injustice, and from all kinds of offensive attacks. Instead, we should be seen to be strengthening those laws that help preserve the dignity that the people in our community are entitled to. There are those who live in our community who seek to profit from building up ignorance and fear in the community. They put out messages describing particular groups in the most disgraceful terms. Unfortunately, our legislation does not adequately protect us from these vile attacks made by these groups. I refer to clips that have been on YouTube for only a matter of weeks and were put up by an extreme right-wing group known as the Australian Defence League. It became the subject of a report on ABC's *7.30* program. It was a disgraceful attack by the ADL, as it likes to be known, by someone who is purported to be an ex-soldier, who claimed to be the

leader of the group. I note in passing that I have not heard anyone in the Australian Defence Force denunciate this ex-military person's vile attacks towards the Muslim community, given his claims to have the support of people within the Defence Force. There is no room for that kind of divisive behaviour in our community.

I represent an area that is increasingly multicultural, and gloriously so. It is one of our great strengths, and I am very proud of the level of harmony we enjoy. I think we can do better by moving from a position of tolerance to a position of respect by people embracing those other cultures, and we are well on the way to achieving that. It is really exciting, and my electorate is a tremendous example of that. I am sure that is happening in many other communities across Western Australia, but we need it to continue. I am very fearful about the attacks made by groups such as the Q Society. It is another group whose members have started letterboxing in my electorate. The Q Society put out a vile pamphlet that turned up in a letterbox at the address of one of my constituents. It states —

> IT'S TIME TO SAY NO
>
> NO TO THE MULTI-MILLION DOLLAR HALAL FOOD INDUSTRY.
>
> NO TO INCORPORATING WHITEWASHED ISLAMIC CONTENT INTO OUR STATE SCHOOLS.
>
> NO TO SHARIA FINANCE.
>
> NO TO SEGREGATION AND APARTHEID.

The pamphlet is suggesting that these are traits of the Muslim faith. Although the postal address given in the pamphlet is a Victorian address, I understand that the Q Society and its current president is Western Australian, which is disgraceful. These are disgraceful things and we should not tolerate them. More to the point, we should have legislation that prohibits and makes illegal making such publications, whether it is a pamphlet letterbox drop or a YouTube clip. It is for that reason that I fully support this motion and call upon the Barnett government to make a submission to the federal Attorney-General. I think we need to go further at our state level by amending the Criminal Code that incorporates provisions for racial vilification and extending it to include religious vilification.

Many great faiths are represented in my electorate; all three of the great Abrahamic faiths are well represented. We have numerous Christian churches, the Jewish and Islamic faiths are well represented, and we have Hindus, Sikhs and many other smaller faiths. At their heart, those religions preach goodness and encourage goodness in humanity. It is completely wrong that any offensive material should be put out that seeks to attack these people. There is another reason—this is almost a reason based on self-interest—that we should not allow these kinds of attacks. I refer again to the ADL attack on YouTube. That should not be tolerated because it gives rise to the very climate and thinking that could see us face things such as Islamic extremism. If a young person has just seen this vile attack on his or her faith, there are numerous ways to react. If the person is made of strong stuff, he or she can perhaps block it out and ignore it.

I think it would be quite natural for someone to want to respond to the sort of disgusting content that is in the Australian Defence League's YouTube clip. If someone wanted to respond, how would they do so—through argument? I would hope so. For some people, who perhaps have not received the necessary education and assistance to think through the consequences of their actions, there could be a temptation to look toward extremes. This is a point that the former United Kingdom Prime Minister Tony Blair talks about. He is fearful of the rise of Islamic extremism.

It is by marginalising groups, as is the manner of the Q Society and the ADL, that will lead to the rise of extremism. That is why we need legislation that will counter the kind of aggressive nasty attack that panders to ignorance and fear. People who in their day-to-day lives probably have very few encounters with people of different faiths and have no experience, see this clip and hear these nasty messages and think, "Oh well, that must be true. I will go along and support that guy." That is actually the problem that the United Kingdom is facing. I return to the United Kingdom and the comments of current Prime Minister David Cameron who describes the United Kingdom Independence Party as a bunch of "fruitcakes, loonies and closet racists". It is that kind of message that they are putting out there: people may not know much about Europeans or people from the subcontinent, but they should be fearful of them. Pandering to ignorance and fear—that is what these people thrive on. It is something that we have to guard against and counter every step of the way.

I support this legislation because it calls on the government to act, just as the New South Wales and Victorian state governments acted. They saw that it was in the best interests of their communities to make submissions to the federal government about the repeal of section 18C of the Racial Discrimination Act 1975. Why did Western Australia not do the same? I can only conclude that those opposite do not understand, do not appreciate or do not

care about the significance of what the repeal of section 18C would mean. That is a disgraceful situation. We need good protection laws; we do not need any weakening of this legislation at all.

I touched on the issue of state legislation, especially protection of people's religious convictions. I noted that we had a conviction under section 80B of the Criminal Code for someone who made offensive remarks about Jewish people and described someone as a "racist Jew". I understand that that person was prosecuted under section 80B. The terminology was significant because the person described someone else as being a racist Jew. I also understand that the Criminal Code was used there because it allowed for this racial aspect, whereas unfortunately, if someone's attack is merely based on a person's religious faith, our state laws would not be adequate. We need to look at modifying our Criminal Code so that the racial vilification provisions are extended to include religious vilification as well.

I conclude my remarks, but I think it is dreadful when people are made to feel that they are not accepted in the communities that they live in, call home and are born into. It is completely wrong when people are told vile things such as "go home" when they are born here, live here and are part of this society. As if they could magically go somewhere else. This is offensive stuff and I note that there is a tendency in Australian society—it is perhaps not peculiar to Australian society—to kick the latest arrivals and to knock the latest arrivals. In the course of my school education I recall Italian people, as has been said, being spoken to in offensive terms. My education was in the 1970s but by the late 70s and early 1980s it had transitioned into attacks on Asian people. I do not hear as many attacks on Asian people these days—I think they still exist—because now it is people of Islamic faith who are attacked. We seem to have this tendency to want to kick those who are at their most vulnerable because they are newly arrived. They are going through all those challenges that a group that has recently arrived in the country has to face; all those difficulties that we learn about when we go to things such as citizenship ceremonies and speak to people who have been here just long enough to qualify as citizens. They are delighted to be becoming Australian citizens. We hear their stories; they have perhaps come from war-torn countries or just come here because they want to have a better life for themselves and their families. They find that they have had to separate from family and leave close relatives and friends behind. Then there are all the challenges of finding a new job, home and schools—finding their way in a new country. These are enormous challenges that people face. Yet, those newly arrived people are the ones who are most vulnerable to these kinds of attacks. There is much work to be done in this area of preventing racial vilification and religious vilification in our community and it is a challenge that we in this Parliament must take up.

Mr J. Norberger: Is the member going to table the Q Society flyer?

Mr C.J. TALLENTIRE: I certainly will.

[The paper was tabled for the information of members.]

MS J.M. FREEMAN (Mirrabooka) [5.27 pm]: I understand that the member for Gosnells will lay that flyer on the table for the duration. I also rise to support the motion that this house expresses its deep regret that the Barnett government, unlike New South Wales and Victoria, failed to defend the interests of the residents of this state, the most multicultural state in the country, by lodging a submission opposing the proposal by the commonwealth to repeal section 18C of the Racial Discrimination Act 1975 and also failing to publicly acknowledge that those changes would have an adverse impact.

As outlined by the member for Girrawheen, the period for submissions closed on 30 April this year. Hopefully, from this debate this evening, and from what I can understand is a feeling that we all hold dearly in this Parliament about equality and fairness, on a minister-to-minister basis, the minister will make the federal Attorney-General aware that this Parliament found that sections 18C and 18D should remain in the act. We must remember that sections 18C and 18D have been operating since 1995. If we think about that—my son turned 18, having been born in 1996—if this was such a terrible issue, why was this not discovered prior to the issues about Andrew Bolt, which is where this came to the fore.

I do not think the member for North West Central necessarily should have said it by standing up and making negative comments when he could have talked about it in a positive way but he was talking about the importance of leadership on this issue. The importance of leadership is foremost in championing the important social principle of equity and fairness with no racial vilification.

I have never suffered from that situation as I am a seventh generation Australian. I am extraordinarily lucky but it is also because I am part of the pioneering majority, whereas those communities that lived here prior to colonisation have suffered greatly from systematic and casual discrimination in our community. What these particular sections of the act attempt to do in a way is ensure that the community as a whole knows that conduct is no longer acceptable in our community and has not been since 1995.

Certainly, when we have the opportunity to attend citizenship ceremonies, as I did last night at the Wanneroo council and will again tonight at the Stirling council, we see people commit to their rights and responsibilities as Australian citizens. There is a paragraph in their pledge about rights and responsibilities. All members know that rights and responsibilities are not outlined in our Constitution; we do not have a bill of rights or that sort of thing. They are enacted through subsidiary legislation and are also implied through High Court common law decisions. One of those rights is the freedom of speech. The federal Attorney-General has said that these provisions need to be amended because they undermine freedom of speech. No-one has said that in 19 years, but suddenly, since Andrew Bolt said something pretty vile and found himself before the courts, there is an imposition on freedom of speech. That comes through because it is implied to exist in the High Court. Many people in this place might know that the High Court has dealt with freedom of speech based on freedom of political communications as a necessary means of participation in a democratic society. That is where the High Court common law determination comes from. As I recall, it was about trying to stop some funding around political advertising. The High Court implied freedom of speech in common law; it is a pretty impressive decision to embody it in common law and then support it in the way we operate.

We have to understand that sections 18C and 18D provide very few explicit protections from the right to freedom of speech. There are very few limitations on the right to freedom of speech that are implied in common law. This has been restricted by a cautious and deliberate justice system. The justice system is very cautious about how it interprets sections 18C and 18D. The cautious justice system demands more than a mere slight that may cause offence. It is not just about a throwaway line. It is not just about people who get slightly offended. These are very serious aspects of the law. Sections 18C and 18D give people a protection when they feel that they have been racially vilified so that their complaint can be conciliated and they can sit around a table and have a discussion. So much change comes from that. The Western Australian Commissioner for Equal Opportunity will tell us that few complaints to the Equal Opportunity Commission ever go to the State Administrative Tribunal, as one of the most powerful tools is the capacity to bring people to the table so that they can see different perspectives and understand why someone found a particular comment, action or article offensive.

Laws play a very important role in establishing boundaries within society. The current act does not cover expressions made in private. People can say certain things in private that may be quite offensive and disturbing, but this law is about the public stance that a person takes. This issue came about because Andrew Bolt was held to account by the courts for his comment in an article that fair-skinned Aboriginals abuse their identity to claim welfare benefits. Action was then taken in the courts, and the courts found that he had racially vilified the person who made the complaint. That was despite the fact that section 18D provides a protection for artistic works, scientific debate and fair comment. If it can be shown that the act was reasonable or done in good faith, a person cannot be held to have vilified someone under the provisions of section 18C. Section 18C exempts a person from prosecution if the act was reasonable or done in good faith. Andrew Bolt was found guilty because his comment that fair-skinned Aboriginals abuse their identity to claim welfare benefits was neither factual nor accurate. He abused his right to freedom of speech, and that is what caused him to appear before the courts. This provision has not somehow opened the gate to someone who wants to whinge or who has an unrealistic position. He abused that right to freedom of speech. Australia is a free country. We have a free discourse that should facilitate better understanding and progress. However, that should not be done in a manner that racially vilifies someone or racially discriminates against someone.

We all celebrate Harmony Day. It is a great event. I celebrate it in Mirrabooka and we have a great time. It celebrates diversity and multiculturalism and shows how much our society is enriched by open dialogue and interchange with citizens of all backgrounds. Harmony Day is celebrated on the same day as the United Nations International Day for the Elimination of Racial Discrimination. Ending discrimination is the other side to celebrating multiculturalism. We cannot stand here and say that we love a multicultural community that is inclusive without looking at the other side, which is ending racial discrimination. In the words of the Race Discrimination Commissioner, Dr Soutphommasane, racism diminishes our society and the harmony we have worked so hard to achieve. When racism happens, Australians should be able to turn to its laws for redress. Everyone should have the assurances that our laws reflect our values and that they give full voice to civility and tolerance. Dr Soutphommasane is the author of three books, and I recommend that members look at those books or at least listen to some of his speeches. He is really troubled that racism in Western Australia is often dismissed as a social issue that is exaggerated: "What are we all worried about? It is not really there." As a nation, we need to have a conversation about casual racism, because it is certainly an issue if members of the community think that they have the right to put out a leaflet that refers to things that others disagree with, but not if it incites hatred, racial discrimination or unlawful behaviour. I do not think that is a right. That is beyond freedom of speech. Beyond the freedom of speech is the ability to say that a person has a right to be a bigot. "Bigot" is defined in the *Macquarie Dictionary* as a person who is intolerantly convinced of the rightness of a particular

creed, opinion or practice. "Bigoted" is defined in *The Oxford English Dictionary* as having or revealing an obstinate belief in the superiority of one's own opinions and a prejudiced intolerance of the opinions of others.

I often find it strange that we in this place somehow think that we have got it sussed, that everything is better under us and that we have worked out the equal opportunity stuff, instead of looking at the reality of it. It is a gradual process to a better society through all the stuff that we do, including how we legislate as leaders and how we behave as community participants. In this case, it is about the whole aspect of the leadership of the government. It is of deep regret that no comments were made by this government, because, at the same time, the government is reviewing the Equal Opportunity Commission and the Commissioner for Equal Opportunity. It is of deep regret that that has been done in a clouded essence and the government has not made a public submission to the federal Attorney-General. It is of deep regret that there has not been a conversation in the community about a 1984 act that has not been amended and that we have not had a constructive debate about how we can make it more workable and better operating legislation that benefits all of us in the community. It is with that deep regret that I say this government could show its commitment to equity and diversity in the community by having a proper discussion with the Western Australian community and the Parliament about its intention for the Equal Opportunity Commission instead of the Premier's throwaway line we heard in here at one stage that he feels it could be done differently now or that it is duplicated. I do not have the quote word for word but the essence of it was that it is fixed now; we do not have to worry any longer; we can push that aside; it is a long time ago now; we are in a better society now; we do not have to worry about that so much. Let me say that it is clear to me that we are not in a better society. The Muslim Women Support Centre of WA's submission to the Public Sector Commission on the Equal Opportunity Commission review refers to the fact that Muslim women in Western Australia have reported to the centre many incidents of discrimination and harassment and even physical assault. It quotes research in Victoria that shows a very large amount of discrimination against women since 9/11. It refers to verbal assault; incivility, which includes rude gestures and repeated demands to go home; and exclusion, an assumption that is often expressed politely, but hurts nonetheless, especially when they are not Australians. It refers to the fact that many Muslim women have difficulties with discrimination, particularly in finding and keeping employment, and denial of service. The submission says that this occurs in particular to women who wear the face veil and takes the form of refusing to serve women or even denying their permission to enter the shop or service area. Physical assaults include groping, pushing and shoving.

It is very clear—the member for Gosnells put it very clearly—that discrimination and vilification on the grounds of religion are not covered by the act. Being followers of Islam does not make people a race. I am not even beginning to suggest that that is the case. It makes people followers of a religion that is—the member for Gosnells has a proud heritage based in the same faith that many people in this house share—an Abrahamic faith, as is Christianity and many others. I am not a person of faith, but I uphold the extraordinary importance of faith to many people's lives. When people try to act on their principles and on the good and moral manner that their faith outlines but they are discriminated against or vilified because they hold those beliefs, it can cause enormous difficulty for people in the way they practise their faith in our community. As members of Parliament and of our community we do not want that in the inclusive society we want to build.

It is of deep regret that this government did not show the impetus that the New South Wales and Victorian governments showed. I note from the member for Girrawheen that it was not because she, of sorts, put the government on notice by asking the Premier whether he would make similar comments to those the Victorian Premier made about the changes to sections 18C and 18D of the Racial Discrimination Act, but it is in keeping with the context that these matters are already at the forefront of the minds of members of the government because they are reviewing the Equal Opportunity Commission themselves.

[Member's time extended.]

Ms J.M. FREEMAN: It is at the forefront of their minds because they are doing it. Suddenly the feds are doing it and the government ignores it; it says this is not a priority, even though it has given it priority at the state level. That does not seem consistent. It seems unbelievable that this government could not make its views known to the federal Attorney-General, especially given the Premier indicated—again I am not quoting him verbatim because I do not have *Hansard* in front of me; it is from memory—that he felt that many of the rights covered in the Equal Opportunity Act 1984 were covered by federal legislation. If the Premier is saying that our legislation is no longer important because there is the federal legislation, does that not make it even more important that this government should have put in a submission to the federal Attorney-General? Given that the government is considering that, would that not make it more important?

I want to add a couple more comments. Australia is indeed a free country. Free discourse facilitates better understanding and progress. I believe that. It is sometimes quite difficult to have discussion. Open discussion leads us to better understanding. Behaving in a bigoted manner has no place in Australian society. It adds nothing to public discourse. It is essentially blind prejudice; therefore, it is really dangerous if our leaders say

that it is okay. If we think about it, since 1975, people like the member for Carine, the member for North West Central and other members who stood and spoke of that experience, have seen change. I would like to think that change is partly because we legislated for change, otherwise what are we doing here? Why do we legislate for anything if we do not believe our legislation can change public debate, educate people and uphold the way our community should operate? When the member for North West Central said he was teased as a child for eating something and later he served it as something that others in his community wanted—I am talking about salami and things like that—that is because we have become an inclusive society because we legislated to say we need to be broader than this. We need to say that these are not the principles and standards we want nor the way we want our society to look. The implied freedom of political communication found by the High Court does not extend to offensive material. The implied freedom is limited to what is necessary for the effective operation of that system of representative and responsible government provided for by the Constitution. Bigoted opinions do not add to political discourse and have the effect of stifling voices, particularly those of minorities and groups that face discrimination—commonly Aboriginal and multicultural Australians.

The proposed changes are to "the reasonable member of a group test"—that is, to reasonable members of the Australian community, as the member for Armadale outlined. The concern of the communities I have spoken to is that it will be a very judgemental test. In the Andrew Bolt case, the Aboriginal community and Aboriginal people could not say that he made an unreasonable, racially offensive comment. It would be the member for Southern River and I, or even perhaps just the member for Southern River. The member for Southern River and I have been sitting here having a little discussion and we have very different views about how these things should operate. I am all for me deciding on what is a reasonable member of the Australian community. I am happy for the government to give me that role but it is not going to. It might be given to the member for Southern River, but it might not.

Dr K.D. Hames: Is there someone in the middle?

Ms J.M. FREEMAN: It is always funny and extremely interesting when the right and the left meet! The point of what I am trying to say is that the benchmark has to be about the people who have that offensive and vilified language and information—in this case via a newspaper article—targeted at them. That should be the measure. It is certainly a measure of sexual harassment in the workplace. It is certainly a measure of other harassments in the workplace. It is on the basis of what that person is experiencing. It is not that I thought it was okay to sexually harass that person because I am just that sort of person; it is about saying how it affects me in the workplace or how that affects someone in the community. To change that changes the absolute essence of how the Racial Discrimination Act works. It changes it in a way that actually undermines what we were trying to achieve and the rights we were trying to give people in our community. We can say, yes, we have the freedom of speech, but if it racially vilifies or is hate speech, it affects people, and that has to be part of the principles of this act. The fact that the more limited definition of "intimidate" will refer only to physical intimidation will amount to physical intimidation likely falling into the definition of an assault under the criminal legislations of most Australian jurisdictions. Thus the restriction on the meaning of "intimidate" as meaning only physical intimidation removes the purpose of the initial legislation and undermines its principles.

I reiterate that section 18C was enacted in response to the recommendations of the reports of the National Inquiry into Racist Violence, and the Royal Commission into Aboriginal Deaths in Custody, which were two very, very important reports—especially that of the Royal Commission into Aboriginal Deaths in Custody. If we want to change our history, if we want to make sure that this can be an inclusive society that recognises its past and moves towards a very harmonious future, we cannot return to the past. We cannot amend section 18C and 18D and return to the past. We cannot return to the past by undermining our Commissioner of Equal Opportunity and the Equal Opportunity Commission legislation. Those reports and the subsequent legislation recognised the significant emotional and physiological harm that can result from racial hatred and vilification, and the role such communications play in exacerbating existing discrimination. This significant harm is recognised as an element that must be shown before the courts are willing to intervene and find that there has been a breach. These are more than mere slights; they are serious issues, and they deserve to stay and this government should have strongly told the Attorney-General that.

MR P. ABETZ (Southern River) [5.52 pm]: Firstly, I am sure no-one on our side would in any way condone any form of racism. The issue before us is that the federal Attorney-General, Senator George Brandis, released a draft bill that would amend the Racial Discrimination Act 1975. That is being debated in the public arena at this point in time. It is interesting that when the Liberal Party went to the last federal election, one of its election commitments was to address section 18C of the Racial Discrimination Act. If the Liberal government in Canberra had not acted on that, surely the Western Australian Labor Party would have wanted to add it as "another broken promise". The Labor Party accuses us of breaking promises after being one year into our term as a government. Just because we have not done everything that we said we would do, the opposition says "Broken

promise, broken promise." Now, the state Labor Party is saying to the federal government, "You must break your promise because if you don't, you're not a good government." I really think the federal government has an obligation to the electorate to be true to its word and address the problem that section 18C has caused in many people's minds.

The issue is that of freedom of speech versus protecting the rights of people, which is always a fine balancing act. The fact is that Australia is probably one of the most racially diverse nations on earth, and, I believe, probably one of the least racist societies on the face of the earth. That is not to say there is no racism; there certainly is racism in our community—there is no question about that—but from what I have experienced, seen and read, I do not think our society is particularly racist. But there is certainly room for improvement, and we should not tolerate racism whenever we see it in our community. We need to speak out strongly about it.

The aim of the commonwealth reforms is to strengthen the act's protection against racism, while at the same time removing the provisions that unreasonably limit freedom of speech. That is that balancing act. I guess the right of politics tends to go more towards the freedom of speech, and the left of politics tends to go more towards trying to protect the rights of minorities. I think the difficulty with the existing section 18C is that it states —

> (a) the act is reasonably likely, in all the circumstances, to offend, insult, humiliate …

The word "offend" creates a major problem, because what offends someone may not offend someone else. The truth may offend someone, which means I am not allowed to speak the truth. I think we do not want to create a people who can claim to be offended in our society. I am of German background; Germans are often spoken of as being perfectionistic and German engineering has a high reputation. If somebody says Germans are perfectionistic, and a bunch of Germans take offence at that, that person is in trouble because they have offended this little bunch of Germans somewhere. Give me a break! But if someone was to say anything that characterises a particular ethnic group within our community, that ethnic community may not be particularly happy about that being articulated in the public arena even if it is true, and if they claim to be offended under section 18C, the person who said it will be in trouble with the law. That is nonsense, and it should not be. The draft bill proposes that section 18B, C, D and E be repealed, and that a new section be inserted. I do not believe that the new version in any way weakens the issue of addressing racism. The draft reads —

> (1) It is unlawful for a person to do an act, otherwise than in private, if:
>
> (a) the act is reasonably likely:
>
> (i) to vilify another person or a group of persons; or
>
> (ii) to intimidate another person or a group of persons,
>
> and
>
> (b) the act is done because of the race, colour or national or ethnic origin of that person or that group of persons.
>
> (2) For the purposes of this section:
>
> (a) vilify means to incite hatred against a person or a group of persons;
>
> (b) intimidate means to cause fear of physical harm:
>
> (i) to a person; or
>
> (ii) to the property of a person; or
>
> (iii) to the members of a group of persons.
>
> (3) Whether an act is reasonably likely to have the effect specified in sub-section (1)(a) is to be determined by the standards of an ordinary reasonable member of the Australian community, not by the standards of any particular group within the Australian community.

If we want to be a genuinely, if you like, multicultural community, we cannot have people who have special rights because they belong to a group, because if they belong to that group, they are allowed to be offended, and that takes away my right to free speech. That simply is not the way it should be.

Draft subsection (4) states —

> This section does not apply to words, sounds, images or writing spoken, broadcast, published or otherwise communicated in the course of participating in the public discussion of any political, social, cultural, religious, artistic, academic or scientific matter.

The act is not being gutted. Very clearly, racial vilification will still be an offence. It is interesting that the proportion of racial vilification complaints lodged with the Australian Human Rights Commission originating in Western Australia has fallen from 17 per cent of complaints in 2010–11 to 10 per cent of complaints in the last financial year. My electorate has a large number of Indian people from different backgrounds, including Sikhs, and South Africans and people from the Middle East. The electorate of Southern River is certainly a diverse community. We want our communities to be harmonious and to work together in harmony. We also want our communities to be tolerant. If we look at *The Oxford English Dictionary*, the verb "to tolerate" means "to endure, sustain (pain or hardship)". Augusto Zimmermann, in an article that appeared in *News Weekly*, stated —

> … a person is deemed tolerant if, while perhaps holding strong convictions, he or she still insists that others are entitled to strongly dissent or disagree from such convictions and to argue their cases freely.

That is one of the real concerns I have about the so-called discrimination group of legislation. People say, "Yes, we need to be tolerant", but the subtitle is, "As long as you agree with me. If you disagree with me, I want to limit your right to express that view."

Mr F.M. Logan: That is not what the law says and that is not what "tolerance" means.

Mr P. ABETZ: Tolerance means —

Mr F.M. Logan: That is what you think it means; it is not what the law says.

The ACTING SPEAKER (Mr N.W. Morton): Thank you, member for Cockburn.

Mr P. ABETZ: What has tended to happen is that the whole notion of people not being able to express opposing views limits the free exchange of ideas. The article goes on to state —

> As New Zealand law academic Joel Harrison warns, this can lead to the self-censoring of ideas, ultimately making the state and its secular courts "complicit in a process of legal silencing undertaken by rival minority groups, engaging with them in debates of truth and falsehood, good and evil". He says, "The court decides essentially theological questions in the process of finding incitement to hatred against persons."

There we have this whole problem that it is classed as intolerance and therefore must be condemned. If someone has a different view—I think the left traditionally has been very strong in that—they try to silence the side that does not agree with their view. I would rather err on the side of giving a little too much freedom than taking away freedom of speech.

Several members interjected.

The ACTING SPEAKER: Members, I do not think the member for Southern River is inviting interjections.

Ms M.M. Quirk: What do you say about physical law—psychological harm and stress?

Mr P. ABETZ: That is already covered in the draft bill. That certainly would be covered.

Ms M.M. Quirk interjected.

The ACTING SPEAKER: Member for Southern River, continue by directing your comments to me. If other members could sit in silence and listen to the member for Southern River, that would be appreciated.

Mr P. ABETZ: In *The Australian* on 15 June 2012, James Allan, a Canadian academic who is the Garrick professor of law at the University of Queensland, wrote about the fact that the Canadian Parliament voted 153–136 to repeal section 13 of the Canadian Human Rights Act, which is the enabling legislation that criminalised so-called hate messages. Although the Parliament voted overwhelmingly on party lines, apparently, the reality is that it was causing a lot of problems within Canadian society. Professor Allan said that the rescission passed through the Canadian Parliament despite the concerted efforts and laments of the human rights industry. The important thing is this: Professor Allan says that the tide has actually gone too far and we need to pull it back a little from where it is. For those who are fighting to maintain freedom of speech, he said that this can be done. Canada is a case in point. In support of the repeal of section 18C of the Australian Racial Discrimination Act, he states —

> In the long term one's position against criminalising words that simply offend others is the most important issue Australians face at the next election.

In a nation that has a strong heritage of free speech, the fact that what somebody says offends you should never be the basis upon which somebody can be punished at law.

Mr F.M. Logan interjected.

The ACTING SPEAKER: Member for Cockburn, you will have an opportunity to make a contribution. I have given you multiple warnings. You have been called to order once already today. I would like to listen to the member for Southern River in silence for the remainder of his time. Thank you.

Mr P. ABETZ: I also noted with interest that Anthony Dillon, who identifies as an Aboriginal person, wrote in *The Australian* on 27 March this year —

> Political correctness, with regard to people who identify as Aboriginal Australians, has reached the ridiculous stage where one can be accused of being racist simply by questioning the motives of some people who identify as being Aboriginal.
>
> Or there is the obvious elephant in the room. Why is it that someone with multiple ancestries chooses to build their identity around being Aboriginal, when having only one of your 16 great-great-grandparents being Aboriginal qualifies you to claim being Aboriginal? People are free to identify how they wish, but they should not be surprised when they are questioned about it.

I again draw the house's attention to some work done by Augusto Zimmermann from Murdoch University. In his submission on the exposure draft "Freedom of speech (repeal of section 18C)", he writes —

> It is a misconception to assume that free speech —

The ACTING SPEAKER: There is a conversation happening, member for Girrawheen and member for Mandurah, that is making it very hard for me to hear the member for Southern River—and I am sure likewise it is making it difficult for Hansard. If there is a conversation that you need to undertake, please take it outside the chamber. Thank you.

Mr F.M. Logan interjected.

The ACTING SPEAKER: That also extends to the member for Cockburn. I have just made the point about conversations directly in front of the member with the call.

Mr P. ABETZ: According to Australian Human Rights Commissioner, Tim Wilson —

> … it makes a foolish assumption that free speech favours those with power. Anyone who has studied a skerrick of history knows that protecting free speech is about giving voice to the powerless against the majority and established interests.

In that context, I would like to make reference to William Wilberforce. In his fight for the abolition of slavery, he certainly offended many people because he took a position that was considered by the society of his time as being totally ridiculous and economically destructive. The idea that black people had equal inherent value as white people and therefore no-one had the right to hold another human being as a slave—which he drew from his Christian faith—had no support in the Parliament at the time.

[Member's time extended.]

Mr P. ABETZ: He had no support whatsoever. Many times, when Wilberforce got to his feet in Parliament, other members thought he was so way off the mark that they used to go down to the pub for a drink because they thought it was not worth listening to him. But over a period of 40 years, he managed to get enough support to actually swing public opinion against slavery. How many people did he offend? If the merchants who traded in slaves were of a particular ethnic subset within British society at the time, they could have said that they were offended by what this man was saying and Wilberforce would have been in trouble, and the fight against slavery could not have proceeded.

Zimmerman makes a further point about the existing section 18C of the Racial Discrimination Act, which makes it —

> ... unlawful for a person to do an act, otherwise than in private, if:
>
> (a) the act is reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate another person or a group of people; and
>
> (b) the act is done because of the race, colour or national or ethnic origin of the other person or of some or all of the people in the group.

This is a very broad prohibition and it really is an extraordinary limitation on freedom of speech. The key words in section 18C, as I have said before, are "offend, insult, humiliate". Those terms are not very precise in law and the undesirable outcome is around the present notion of being offended. The word "offended" is one that I

particularly have difficulty with, and it becomes very emotive. The draft bill raises the harm threshold that must be met before an act can be considered unlawful. Some of the previous speakers see that as a negative factor, but I actually see it as a positive factor because it gives greater freedom of speech.

I do not in any way condone what appeared on the leaflet held up by the member for Gosnells, but I have had very religious people come to my office to say that they have great difficulty eating meat that has been killed in accordance with prescribed halal methods, and that when they go to restaurants, they are not always told whether the meat is halal or not. For them, that is a genuine issue. They do not want to deny Muslim people the right to have halal meat; not at all, but they want the right to not have to eat meat that has been slaughtered according to those rites. I would say that it is their right to want that, just as I would absolutely uphold the right of Muslim people to be able to buy halal meat; there is no question about it. The rights of both need to be considered. If somebody says, "I want the right to be told whether the meat is halal meat", and people take offence, that person will be in trouble with this law as it currently exists, and that is where I think we need to be just a little more tolerant. The suggested revision of section 18C that Senator Brandis has put out for public comment goes some way towards addressing that. If section 18C remains in the legislation, people will be judged by the standards of an alleged victim group and not by the broad standard of our society. It is just the same as the principle of trial by jury, which is the broad basis of our community. If a jury thinks beyond all reasonable doubt that someone is guilty, we say that is fair enough. But if we were to allow an alleged victim group to be the judge, I think we would have some difficulties.

I have just been given a note to hurry along because there are others who would like to speak, so I will try to wrap this up very quickly.

Another Indigenous leader in our community, Dr Sue Gordon, the retired magistrate who led the Northern Territory intervention, has come out in support of the Abbott government's suggested changes to the Racial Discrimination Act. She has argued that the suppression of racism under the current law only makes it worse, because it tends to drive it underground. According to my notes, she has said —

> "I agree with what Brandis said. People do have a right in this country, you can't suppress everything."

Dr Gordon was backed by Anthony Dillon, who observed in an article in *The Australian* that political correctness can go too far.

I believe that the federal government in trying to address the difficulties of section 18C of the Racial Discrimination Act has put up a reasonable proposal that perhaps could be fine-tuned a bit further, but which nevertheless provides for a very valuable discussion to have as a community. The very fact that we are discussing racism will hopefully encourage people to think about what they say about other groups within our community and take into consideration their wellbeing.

MR F.M. LOGAN (Cockburn) [6.17 pm]: I now have a chance to have my say on my feet rather than by way of interjection!

Given what we have just heard from the member for Southern River, I do not know where he is living; I think he must be living in a bubble, because he sure as hell is not living in Western Australia. Only this Easter, during a discussion I was having with somebody, the person described a fair-skinned Aboriginal to me as a "quadroon". For someone to describe an Aboriginal as a "quadroon", I would have expected them to be at least over the age of 70, but this person was younger than me.

Several members interjected.

Mr F.M. LOGAN: That is right—he was 68! How dare you!

He described a fair-skinned Aboriginal person as a "quadroon", so I asked him, "What do you mean, 'quadroon'?" He replied, "Well, you know—a quarter-caste Aboriginal". If we go back to the legislation governing the protection of Aboriginals in this state in the nineteenth and early twentieth centuries, we will see the term "quadroon" as the legislative determination of a "quarter-caste" Aboriginal person. But this is 2014, and these people in Western Australia are still describing Aboriginal people in that way!

I am not sure whether even Andrew Bolt would have used the term "quadroon", but he certainly came close to it in the headings of the two 2009 articles for which he was found guilty of breaching the Racial Discrimination Act. One was headed, "It's so hip to be black", and the second was, "White fellas in the black". What do members think those headings are describing? He went on in the articles to talk about fair-skinned Aboriginal people who were attempting to "pass themselves off" as blackfellas for financial gain from welfare, or for advancement within their own employment. He then went on to name nine people, who all happened to be Aboriginal people who have a fair complexion. How do members think they felt? No wonder they took a court case against him.

Mr Acting Speaker (Mr P. Abetz), you described what George Brandis is trying to do in his amendments to sections 18B, 18C and 18D of the Racial Discrimination Act as being of benefit, and you described, quite rightly, that the Brandis amendments specifically repeal those sections of the act that take out the words "the act"—that is, the act of bigotry or racism—"is likely to offend" and insert instead, as you described, "vilify, intimidate", and the act is reasonably likely to do those things. You then went on, Mr Acting Speaker, to —

The ACTING SPEAKER (Mr P. Abetz): Member, I should advise you that because I am in the chair, you are not supposed to address me in the debate. You just need to put that in slightly different terminology.

Mr F.M. LOGAN: I will describe you, Mr Acting Speaker, as the member for Southern River.

The ACTING SPEAKER: Yes.

Mr F.M. LOGAN: The member for Southern River then defined vilification in the proposed amendments as inciting hatred and the definition of intimidation as causing fear. There is a big difference between "likely to offend" and "inciting hatred" or "causing fear", because one phrase describes how an individual feels as a result of the act and the other describes the actions of someone to another second party to create fear and hatred to the third party. It is actually inciting hatred to the third person who someone is trying to offend. It is creating a reasonable amount of fear to the third person whom someone is trying to offend. It is not how the third person, the victim, feels, and that is where the member for Southern River clearly just does not understand the difference between the act as it is currently and what Brandis is trying to do. The act as it stands is about the perception of the victim, not an action of a person to try to incite racial hatred that may involve a second party. It is about the victim and the victim's rights to be able to bring a case when they feel that they have been racially abused. There are two completely different things.

Do members know how George Brandis described this in an exchange with Nova Peris, the Olympian and well-known Aboriginal sportsperson who is now a senator? In a very simple exchange in the Senate, Senator Peris said to Senator Brandis, "Won't removing 18C facilitate vilification by bigots?" Senator Brandis responded by saying —

> People do have a right to be bigots, you know. In a free country, people do have rights to say things that other people find offensive or insulting or bigoted.

Currently, they do not, and the people who are the victims of those offences have a right to have their day in court. But that is what Senator Brandis is driving at. That is Senator Brandis's actual view of what those amendments will do if they come into force. They will allow people to be bigots. Where do I find that claim? Straight out of the mouth of Senator Brandis himself in *Hansard*. I am sure that the member for Southern River does not agree with that. If he does, when we have this debate again, the member for Southern River can get to his feet and say that. He should say that and then see what his constituents say to him, because I know that in the member for Southern River's electorate there are many, many people from diverse backgrounds, and they certainly would not want the member for Southern River to be heard saying, "I have a right to be a bigot." That is what Senator Brandis said.

I believe the wording of this motion does not go far enough. I support and compliment the member for Girrawheen on bringing this matter before the house. The wording of the motion is that the house expresses its deep regret that the Barnett government has failed to defend the interests of the residents of Western Australia by not lodging a submission opposing the amendment of section 18C of the Racial Discrimination Act. We have now missed the opportunity to do it, but I would have expressed it by saying that this house condemns the Barnett government for not doing it in the first place.

The reason I referred to the member for Southern River as living in a bubble—as I interjected, I was brought into line by the member for Forrestfield—is that he should take a walk in the shoes of an Aboriginal person in Kalgoorlie or in the Kimberley. He should talk to the member for Kimberley to see what it is like to be in her shoes when she comes down here to Perth—not walking around in Broome, but walking around here in Perth. He should see the looks that she gets and hear the abuse and the snide remarks that are made behind her back and sometimes to her face. Why? It is because she is Aboriginal. The member for Southern River should ask her what it has been like growing up and living in the Kimberley for the last 60 years as an Aboriginal person and how things have changed. Things have changed; they have become better, but not very much. The Minister for Health knows; he has worked extensively with Aboriginal families. He knows what the racism for Aboriginal people is like in this state, particularly in regional Western Australia. It is still deeply rooted. Sometimes people do not express it to us, but they certainly express it to Aboriginal people.

I suggest to the member for Southern River that he should walk through towns in the Kimberley with the member for Kimberley to see what it is like to be stared at and to walk into a shop where the shopkeeper really thinks that her type should not be in there; the shopkeeper looks at her in a strange way and keeps an eye on her

just in case she is going to thieve something from the shop. The member should do that. I have done that with Aboriginal people. I have walked around with lots and lots of Aboriginal people, and I know what they mean when they tell me that people look at them because they do not trust them and think they are going to do something, and that is because they are black. The member should walk around with them and see how it feels. Can the member imagine putting up with that every single day? A person may have a job, be doing the right thing and be trying to bring up their family, but because of the colour of their skin, that is the way people look at them and treat them. That happens every single day in this state, yet we should then somehow defend George Brandis for allowing changes to the Racial Discrimination Act to make statements less offensive to people such as Aboriginal people in Western Australia.

Do members know what would happen in places such as Kalgoorlie and other towns in regional Western Australia if these changes were made? These changes to the act would give some people who are racist the licence to then be overt racists. We might find it offensive but hard luck; the act will have changed. I acknowledge all the statements that were made by the member for Armadale about the multicultural nature of Western Australia and people from European backgrounds, like the member for Southern River. At the end of the day, Andrew Bolt was not talking about them; he was talking about Aboriginals. That is where he aimed his criticism. He then tried to make out that he was trying to defend multiculturalism in Australia. His comments were aimed at Aboriginal people, who, in his view, are white and should not claim Aboriginality. That is what these articles were all about. It certainly does not justify the Attorney-General of this country changing the Racial Discrimination Act simply to overcome Andrew Bolt's sense of offence because he got done under the Racial Discrimination Act. That is all it is. The Attorney-General is changing the act in order to overcome the case that found Andrew Bolt guilty. That is what it is all about. Somehow he wrapped it up in this nonsense about free speech. The member for Southern River also talked nonsense about free speech, along with people like the Prime Minister of this country, who has also spoken about the "sacred principle of free speech". He said —

> Free speech means the right of people to say what you don't like, not just the right of people to say what you do like.

This is not the United States. People should stop watching so much TV and thinking that the Constitution that governs Australia and the bill of rights is American. We do not have a bill of rights. We do not have a written statement that says, "You've got the right to free speech." It is not in the Constitution. We do not have a bill of rights. It is simply an implied right as a result of a 1996 High Court decision. We should stop fooling ourselves. Australia has never had a right to free speech. This is not the United States. We do not have a bill of rights setting out religious freedom and the right to free speech. People should stop watching so much American TV and look at the Constitution. It is an implied right only and it is governed by various acts. One of those acts is the Racial Discrimination Act. This action being taken by George Brandis, the Attorney-General, to amend the Racial Discrimination Act to allow people to become bigots—they are his own words—is absolutely offensive to every Aboriginal person across the whole of Australia, not just people from other ethnic backgrounds who have come to Australia as migrants.

I support the motion. As I said to the member for Girrawheen, it should have gone further; it should condemn the Barnett government for not coming out strongly and putting forward written opposition to what George Brandis has done, similar to what New South Wales and Victoria have already done.

MR G.M. CASTRILLI (Bunbury) [6.35 pm]: I want to make a short contribution because I know another member wishes to speak. On behalf of the member for North West Central, I seek leave to table this document for the rest of this day's sitting.

[The paper was tabled for the information of members.]

Mr G.M. CASTRILLI: I want to say how much I agree with what the member for Armadale had to say. Thank God for multicultural Australia. I believe cultural diversity is an absolute strength in this country. I am very proud of what I did as a minister. The WA government is a strong supporter of cultural diversity. It introduced the first cultural diversity policy and devised a strategic plan for the community by the community. It introduced online cultural diversity training and doubled the grants. The member for Mirrabooka talked about Harmony Week, which was only one of the things that the government funded. It introduced an advisory board to give me advice when I was the minister on things that mattered to the ethnic community. I think it was the first time that the Office of Multicultural Interests was instructed to consult right across regional Western Australia, not only the Perth metropolitan area, on things that really mattered to the ethnic community.

I also worked very closely with the commonwealth in my time as minister to identify where the gaps were, where the overlaps were and the duplication of services. I worked alongside the then minister, Senator Chris

Evans, to work out what the federal government was doing and what we as a state government was doing, overlay those things and draw up a road map to identify where the gaps were, where people were missing out and the areas we needed to cover. We did that because we both wanted to apply services to communities that may have been missing out on services provided by either the commonwealth or the state. When we identified this duplication, we were able to redirect some of that funding and some of those services.

The biggest push was to consult directly with the groups because I wanted to know from the people on the ground exactly what they needed and what they regarded as important to them. I did not want other people who had been in the industry for a long time telling me what they thought ethnic communities needed. I wanted to show people how to fish instead of supplying the fish. At the end of the day, people needed to have the tools to stand up for themselves and add value to our society and our community. The only way we could do that was by not keeping them in the dark and saying, "Don't worry; we'll do it for you." It was about us trying to give people the tools to do it themselves.

I cannot remember the date but I was a commissioner of the Multicultural and Ethnic Affairs Commission under Minister Gordon Hill, who appointed me to the board. I think it was the late 1980s.

Mr R.H. Cook: You're showing your age now, aren't you?

Mr G.M. CASTRILLI: We were talking about 1968 or 1969, so it was back in those days. The point I am getting at relates to what the member for Armadale said when he spoke about racism and the conditions that prevailed at the time. The member for Armadale went through some things but I can go back to earlier days than that when things were much harder. We all acknowledge that things have improved. I first migrated to Australia on 16 or 18 May 1954. I was three and a half years old.

Ms M.M. Quirk: It's your anniversary this year—next week, in fact.

Mr G.M. CASTRILLI: Yes. I do not remember the trip over because we came by ship but I remember travelling in the back of an old blue Austin A40—a big chest. My mother and my sister were in the front and my dad and I sat in the back of the ute, and off we would go. My dad got here in 1952 and we lived in a swamp in a market garden.

Mr D.A. Templeman: Luxury!

Mr G.M. CASTRILLI: It was luxury. We had a Tilley lamp for lighting and the iceman used to come around twice a week with a block of ice for our fridge. I walked to school through the rocks with the snakes and everything going past. I remember those days and I remember being spat upon, kicked, and called names like "wog" and "ding" and all that sort of stuff. The member for Armadale talked about embarrassment. I questioned myself too several times when walking down the street and walking into shops. I remember well asking for employment in the early days. I used to work from four or five o'clock in the morning until late at night just to help in the market garden and to try to get ahead. We had nothing. I think someone said something about the content of a person's heart, not the colour of their skin.

As was mentioned, Western Australia is the most culturally diverse state in Australia with 32 per cent of people being born overseas. Nearly 52 per cent of Western Australians were either born overseas or have one or both parents who were born overseas or some connection to being born overseas. We have over 200 nationalities, 270 languages, and we practise over 100 religious faiths. When my father came to Australia in 1952, he worked in the railways. He often tells me stories about his early days and about camping in the hills outside of Collie. They were not allowed into town because they would get beaten up, until more and more ethnics turned up, especially the Slavs who were big guys, and then the tables quickly turned, but that is what happened.

Mr F.M. Logan: It is still the same today for the people from Bunbury!

Mr G.M. CASTRILLI: Member for Cockburn, when I was a young bloke there used to be a convoy of people coming down the hill from Collie to have fights, and then a convoy of people going up the hill from Bunbury to Collie to reciprocate. It has stopped now, but that is how it was. My father used to go away when working with the railways and I remember my mother had to walk through the swamps to go shopping. At the shop, because she could not speak English, they handed her a broomstick to use to point to the things on the shelves that she wanted to buy. When I started school, I could hardly speak English. When I first started school right up until the time I started work in the bank, people used to come around and ask to see me for help to fill in forms and interpret for them and that sort of stuff because they thought I knew something. God only knows what I put on those forms. Nothing has come back on me so far, so I must have done something right, but that is how it was back in those days.

There was no assistance in the early days when I was growing up. There were no English lessons for me or my family. There were no start-up subsidies or handouts and there was no housing that I can remember. There were no subsidies for sporting organisations and all that sort of stuff either. There were some difficult times. There were none of the organisations that we have today that could link us with relevant government departments and give us assistance in terms of transport, education, housing, health or whatever. Things have changed, but those sorts of experiences put me in good stead when I became the Minister for Citizenship and Multicultural Interests. It gave me an understanding of what people went through. Yes, I have an Italian background, but I daresay that many other ethnic groups went through the same sorts of things. With knowledge and understanding comes a change in attitude. Things have improved a helluva lot and we are still on that improvement curve.

I do not agree with Senator George Brandis. I do not support the motion because it is having a go at us. In my limited time as minister I tried to do something about those sorts of things and about improving the lot that I have in life. I am proud to be called an Australian. When the time and opportunity arises, I thank my parents for migrating to Australia. My dad's grandfather told us to go to America, but fortunately—thank God—we ended up in Australia. I am very proud to have become the mayor of the fantastic City of Bunbury. We all love our communities. I used to think it quite funny that as the mayor, wearing my chains, I used to attend the citizenship ceremonies for the granting of citizenship to those from not only other ethnic communities, but also England, Ireland, Scotland, Canada and the United States. That is something that I had never thought was possible but it happens in Australia. I was then very proud to enter Parliament and to become a minister.

I fully agree with what has been said across this chamber. In Bunbury, I introduced what I think is a great initiative called "Choose Respect", which is about treating people with care and consideration. It is about considering what effect a person can have on other people before they act. It is about breaking that cycle of revenge, which is very important. The initiative has been hugely successful. We had our annual street march not long ago and 1 000 people turned up. We should introduce that throughout the whole of Western Australia, and the whole of Australia.

Mr D.A. Templeman: Where did that come from?

Mr G.M. CASTRILLI: It came from a pastor in Armadale. I was invited to Carey Park Primary School and saw it working there and thought it was a fantastic idea. I wanted to make Bunbury the first Choose Respect city. I think a lot of members know about that initiative. Antisocial behaviour at Carey Park Primary School has reduced by up to 50 per cent. It is a fantastic initiative and we are taking it right throughout the community now through schools, health services, local government and police, and there are signs on the backs of buses—the whole thing. We can make whatever law in this country we like, but the only way to change things is by changing the culture and the attitude, which is what we are trying to do with the Choose Respect initiative. Sometimes, in frustration, I think we should introduce the Choose Respect initiative into Parliament.

Dr A.D. Buti: I take on board everything the member said, but does he not think that this move by the federal Attorney-General is actually a backward step and will not help the education process?

Mr G.M. CASTRILLI: I said that I agree with what the member for Armadale has said. However, I do not support the motion and have been trying to demonstrate how I tried to take steps my own way when I was a minister. Choosing respect gives us a different language so that we can understand each other, and when we understand each other, things change. If we apply the Choose Respect initiative throughout our state, we will become a better society. Yes, we have rights, free speech and authority, but with authority comes responsibility. When we leave school and are given a piece of paper that says what our rights are, yes, they are our rights, but the other side of the paper should tell us what our responsibilities are. If a person wants rights in this country, it is their responsibility to add value to society. A person cannot just take; they have to add. That is where I stand. I need to stop now because another member would like a few minutes to speak.

Several members interjected.

Mr G.M. CASTRILLI: What can I say? What a deflating bit of news. I was just about to sit down, but there goes the member for Kwinana deflating me. That is how I feel about the matter and I hope that in some way I have demonstrated my contribution and what I have tried to do.

MR F.A. ALBAN (Swan Hills) [6.50 pm]: I have enjoyed the contributions of the member for Armadale and in particular the member for Bunbury. Member for Bunbury, we should talk more often because we have very similar stories to tell. It has been my hope that we would be united in stamping out racism. I believe that there are no excuses for, nor should we act with any mercy on, racism. I do not think that it is any secret that I am of Italian birth, and, like the member for Bunbury, I came to Australia with my parents and my younger brother when I was aged six years and my younger brother was three. This issue touches a lot of raw nerves and I do not particularly enjoy speaking about it, although I mentioned it in my inaugural speech. We struck years of racism

and awful conduct that was terribly unbecoming of Australians, who, of course, we have now married and mixed with. It did not bother my brother and me except in the initial few years, from the ages of six to 18, when we copped the normal stuff. Unfortunately, though, we were Catholics and we seldom turned the other cheek. My brother in particular was good with his fists and I had a lot of endurance so I could take a lot of punishment, and they often did not come back a second time. But it was awful—there is no other word for it—and as a result of that experience, I certainly understand anyone who is subjected to racism. That has never gone from my memory or my consciousness.

I am also particularly offended about what happened to my parents. They came to this country on invitation; they were not refugees of any sort. They immediately went to work stacking timber in the Pemberton mill, which is work about as hard as you can get. Contrary to the belief that everyone was starving in Italy—that is a total misnomer and misconception—many Italians came to Australia and had a worse lifestyle in Australia than in Italy for the first few years. I noticed that difference the first time I went back to Italy—my parents certainly added to that awareness—and by 1968, the Italians who had stayed in Italy were better off than those who came here. But I am not talking about the situation in the long term. I am not for one moment complaining, because certainly we are very grateful for the journey our parents made.

I am particularly offended by the conduct towards my parents and the way they were treated by not only people on the street but also all those in the hierarchy. My parents came here and the story of my mother and father is no different from thousands upon thousands of other migrants—Italians, Yugoslavs and all other nationalities. They came out here with a passion that is unmatched. They came here to make a place for their families and to contribute to this country.

Members have all heard—the member for Bunbury has mentioned it as well—that Australia is a multicultural country. Multiculturalism has been a great success. Another thing I wanted to mention, apart from the 200 different nationalities and 200 religious, is that they have brought and contributed colour, flavour and energy to this state and to the country as a whole, and that is well acknowledged. The fact is that when my parents migrated, my dad came first in 1955 with his two brothers, and all three of them worked in the mill. In almost no time at all one brother bought a farm and two stayed on at the mill and they divided two wages three ways. By the time our family—that is, my dad's family, with me and my brother—sought greener pastures in New South Wales in 1979, we had acquired 960 acres in Pemberton and Manjimup. Obviously, they were no slouches at work and were here to contribute and also to forward the interests of their families.

The story I can tell members is that racism was rife—it was awful—yet I distinctly remember the Sisters of Saint Joseph, who understood it all and made every effort to try to create equilibrium within the school. I remember distinctly the best way that they slowed racism down. Whenever there were exams, and we were made to feel inferior—I never felt inferior—the nuns would put the aggregate of the sums on the board after an exam. I certainly learned when my boys went to university, where there was an overwhelming number of Asians—which is a different migration—that the contribution and the talent of the Asians and their commitment to study reflected in the numbers on the board. That is what the nuns did. That cut out a lot of racism.

I must also admit that the great equaliser is football. My brother and I were fairly talented at football and we copped less racism from anyone else once we started playing football. All of those who were our enemies suddenly became our best friends, and that certainly died. We came from 80 kilometres north west of Venice, and it was not the custom, as is the case in other parts of Italy, to marry Italian families only, but my brother, sister and I all married Australians, so we had no trouble integrating. Luckily our kids, the next generation, have faced none of that racism, but I think that we are very conscious—we always should remain conscious—that the successive waves of migration may well not cop the exact amount of racism but there is racism out there.

Further to that, and addressing the motion, I understand that the aim of the commonwealth's reforms is to strengthen the Racial Discrimination Act's protection against racism, while at the same time removing provisions that unreasonably limit freedom of speech. I understand also that there are concerns about the repeal of certain sections of the act, which I have as well. Maintaining and enhancing the standards of equal opportunity and anti-discrimination within our community is an important issue for all Western Australians—and so it should be. It is very important for those of us who have come through quite difficult years. The state has a strong interest in the continued effectiveness and the future of the federal Racial Discrimination Act. I understand and expect that a number of Western Australian organisations will have made submissions, and of course that would be appropriate.

Multiculturalism is no longer an experiment. It has been successful, particularly in our state, as well as in the rest of Australia, so for those who may read *Hansard*, I would say to those who are perhaps a feeling like I did when I was six—we were made to feel less than everyone else—be proud of your ethnicity and the home of your birth. You are a valuable contribution to this country. Also let us not fool ourselves that racism is ever very far away. I

have seen it in this chamber. Not long ago a couple of members of this chamber heckled and ridiculed the Speaker, the member for Mount Lawley, for his accent. That may be called just casual racism, I hope! I hope that it was an offhand comment or a slip of a tongue rather than a malicious act of insult that would of course need to be enacted with the law.

Finally, all Western Australian communities would and should condemn racial vilification. Insulting, offensive and demeaning comments have no place in Australia, particularly not in Western Australia. I look forward to our state maintaining a strong stance on rational vilification offences. Current evidence supports the contention that the Racial Discrimination Act 1975 has been effective in Western Australia, and, hopefully, the amended act will be no less effective.

I would also hope that the efforts of the past continue and that the discrimination that occurred in previous generations is no longer tolerated. I believe we have come a long way and we are not tolerating it, but I also hope that from the suffering of our parents and their generation that the new generations of migrants, which are mostly now of Asian descent, but quite mixed, benefit from the efforts that some of us, particularly those of ethnic origin, have been able to impart in knowledge throughout the community. I would not like a repeat of what the member for Armadale has mentioned.

Debate adjourned, pursuant to standing orders.