PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

5 June 2001

(extract from Book 7)

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By authority of the Victorian Government Printer

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FIFTY-FOURTH PARLIAMENT — FIRST SESSION

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Kilgour, Mr Donald	Shepparton	NP	Trezise, Mr Ian Douglas	Geelong	ALP
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Kotsiras, Mr Nicholas	Bulleen	LP	Vogels, Mr John Adrian	Warrnambool	LP
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Languiller, Mr Telmo	Sunshine	ALP	Wilson, Mr Ronald Charles	Bennettswood	LP
Leigh, Mr Geoffrey Graeme	Mordialloc	LP	Wynne, Mr Richard William	Richmond	ALP

[1] Resigned 3 November 1999
[2] Elected 11 December 1999
[3] Resigned 12 April 2000
[4] Elected 13 May 2000

CONTENTS

TUESDAY, 5 JUNE 2001

Tuesday, 5 June 2001

The SPEAKER (Hon. Alex Andrianopoulos) took the chair at 2.06 p.m. and read the prayer.

QUESTIONS WITHOUT NOTICE

Attorney-General: former Chief Magistrate

Dr NAPTHINE (Leader of the Opposition) — Did the Premier personally approve the payment from taxpayers' pockets of $750 000 in excess of entitlements to the former Chief Magistrate of Victoria, Michael Adams, or was the decision to pay the $750 000 made by the Attorney-General without the Premier's approval?

Mr BRACKS (Premier) — I repeat that the matter of the amount of the settlement for Mr Adams is confidential, on his request, and it remains that way.

Honourable members interjecting.

The SPEAKER — Order! The house will come to order!

City Link: warning notice extension

Mrs MADDIGAN (Essendon) — Will the Premier inform the house of the latest action the government has taken to protect the interests of Victorian motorists who use the City Link road system?

Mr BRACKS (Premier) — The government has been successful in negotiating a better deal for motorists using the City Link toll system. I congratulate the Minister for Transport on securing a negotiated arrangement with Transurban for a further extension of six months in the issuing of warning notices to people who are not paying the tolls on City Link roads. It is a good outcome.

This measure is in addition to the extra six months already secured by the government in negotiations with Transurban. As the house knows, the legislation required that the full $100 fine, without warning notices, should have been paid from the start of this year, but the government and the transport minister successfully negotiated with Transurban for that period to be extended until the middle of this year. This new measure extends that to the end of this year, which is a welcome outcome. It also adds to the other matters negotiated with Transurban to make the tolls more acceptable, easier to pay and more applicable to motorists in Victoria.

As well, weekend passes are now able to be used on the City Link system. Transurban has agreed with that, which will enable regional Victorians to use City Link by obtaining the weekend pass or paying for it subsequently after they have used the system. The Tulla pass can be used from the airport to the city; and a 24-hour pass has also been negotiated, which was not available under the previous government's legislation.

The legislation to enable the extension of warning notices for a further six months will be brought into the Parliament this week.

I congratulate the transport minister on the initiative, and I also congratulate Transurban on working with the government to secure a negotiated arrangement. It will be of enormous benefit to motorists using the City Link tollway.

Marine parks: establishment

Mr RYAN (Leader of the National Party) — Given that the government has used New Zealand support, particularly that of Dr Trevor Willis, for its proposed no-take marine parks, will the Minister for Environment and Conservation explain the claim that fishermen will benefit from the no-take zones when by Dr Willis's admission no research has ever been undertaken outside the New Zealand marine reserves?

Ms GARBUTT (Minister for Environment and Conservation) — The New Zealand experience is not the only science that has been relied upon — and let me talk about the American Association for the Advancement of Science conference. Earlier this year over 150 of the world's leading marine scientists quoted science that found that there were enormous benefits within one to two years of a marine park being established. Population densities were on average 91 per cent higher, average organism size was 31 per cent higher and species diversity was 23 per cent higher. Leading marine scientists from around the world were at the conference, and they signed up to support marine national parks. Our own Australian Marine Sciences Association has come out strongly in favour of marine national parks. The science is absolutely undeniable. Marine national parks result in more fish and bigger fish.

Hospitals: senior nurses

Mr HELPER (Ripon) — Will the Minister for Health inform the house of what action the government has taken to increase the number of senior nurse positions in the Victorian health system?

Mr THWAITES (Minister for Health) — I thank the honourable member for Ripon for his question. This morning at the Royal Victorian Eye and Ear Hospital I was pleased to announce the provision of 153 additional effective full-time (EFT) nursing positions, which amounts to an additional 200 nurses, because some of the positions are part time. The government has approved the funding. There will be 50 EFT assistant directors of nursing, 51 EFT clinical nurse educators and 52 EFT clinical nurse consultants.

Mr Leigh interjected.

Mr THWAITES — I am pleased the honourable member for Mordialloc has followed the news closely, because it is good news right across Victoria.

Mr Leigh interjected.

Mr THWAITES — He reads everything I say, but he obviously does not read what he says!

The new funding means extra nursing positions in regional and rural hospitals. In the Loddon–Mallee region, which is in the honourable member for Ripon's electorate, there will be nine extra positions in clinical nursing. Not only will this assist directly in the honourable member's area, but it will also assist the honourable member for Rodney. He will be pleased to know that there will be an extra position at the Cohuna District Hospital for a lactation consultant, there will be diabetes education at Kyabram, and there will be extra work on breast care and stomal therapy at Echuca hospital. I am sure the honourable member for Rodney will be pleased about that. As well, there will be additional assistant director of nursing positions.

In the honourable member for Ripon's electorate, at the Maryborough District Health Service there will be an assistant director of nursing focusing on aged care, which is very important, and coordinating services across the three campuses at Dunolly, Avoca and Maryborough. The Minister for Aged Care has been very generous in providing funding for the works at those hospitals. I still believe the commonwealth has a good way to go in supporting those hospitals with aged care positions.

In addition, there will be clinical nurse consultant positions to assist patients and families. I was pleased this morning to speak to one of the new nurses whose expertise is in diabetes. There is a major problem across Victoria with people not getting adequate treatment early enough in the illness, particularly in diabetic retinapathy, and these additional positions will help to ensure there is not only adequate screening but also early treatment. We are working with one particular community, the Turkish community, to try to get it to take part in prevention and screening measures to prevent diabetes getting out of control.

The government is providing extra nurses, particularly senior nurses, to support and train new nurses so we can retain them in the future.

Attorney-General: former Chief Magistrate

Honourable members interjecting.

Dr DEAN (Berwick) — I have only just started; there is a lot more to come.

Honourable members interjecting.

The SPEAKER — Order! The house will come to order!

Dr DEAN — I refer to the fact that early last year the Attorney-General visited a number of Magistrates Court complexes, including the one at Geelong, and that he made the visits behind the Chief Magistrate's back without notifying Mr Michael Adams's office, as is the appropriate — —

An honourable member interjected.

Dr DEAN — I am only just starting the question.

Honourable members interjecting.

The SPEAKER — Order! The government benches will come to order!

Dr DEAN — He did that without notifying Michael Adams, as is the appropriate protocol. I ask the Attorney-General whether it is a fact that at those meetings he spoke to magistrates about Michael Adams, and, in particular, whether during the secret visit to the Geelong Magistrates Court he said outright, 'Michael Adams has to go'.

Honourable members interjecting.

The SPEAKER — Order! The house will come to order. The honourable member for Pakenham! The honourable member for Monbulk!

Mr HULLS (Attorney-General) — I thank the shadow Attorney-General for his question.

Honourable members interjecting.

Mr HULLS — Thank you very much for your question! Despite the fact that the shadow Attorney-General thinks there are all sorts of conspiracy theories relating to the former Chief

Magistrate, I advise him that there was no conspiracy relating to Michael Adams. The only reason Mr Adams is not Chief Magistrate is that he resigned!

I know the shadow Attorney-General has been searching all over the place for conspiracy theories. I understand that recently he was considering booking a flight to Dallas to visit the grassy knoll to try to link me to the death of JFK! It is nonsense. I know on the weekend he was looking for Elvis. Before he asks his next question I say to him that as the Minister for Racing I had nothing to do with the death of Phar Lap!

Honourable members interjecting.

The SPEAKER — Order! The house will come to order! I ask opposition benches to come to order. The honourable member for Kew! The Leader of the Opposition!

Rail: Footscray collision

Mr MILDENHALL (Footscray) — Will the Minister for Transport inform the house of details of today's train accident in Footscray and what action the government is taking to investigate the incident?

Mr BATCHELOR (Minister for Transport) — At about 8.30 this morning a train running from Flinders Street to Williamstown with no passengers collided with the rear of a stationary passenger train carrying some 20 passengers at Footscray station. Unfortunately there were three reported injuries, including to the driver of the empty train, who has a suspected broken arm. Two passengers were also taken by ambulance to the Western Hospital for observation and have subsequently been discharged.

I am advised that National Express, which runs the trains on this part of the network, is in the process of contacting the passengers. Following the accident, safety personnel from both National Express and the Department of Infrastructure were on the scene and began investigating the incident to determine the required course of action.

In line with the terms of its safety accreditation, National Express has begun an internal board of inquiry. In addition, I have asked the Australian Transport Safety Bureau (ATSB) to undertake a full and thorough investigation into this morning's accident and report to the government at its conclusion. The terms of reference are currently being drafted and the investigation will begin immediately.

The accident has affected passenger train services between Footscray and Newport stations and buses will ferry passengers between those two points until the line is clear. V/Line trains and freight trains will be re-routed through Brooklyn and then continue their journeys — unfortunately with some delays.

A clear picture of all the factors leading to the accident is not yet available, and the government will await the findings of the ATSB inquiry. The thoughts of honourable members are with the injured train driver and the passengers, all of whom suffered significant shock. We wish them a speedy recovery.

Attorney-General: former Chief Magistrate

Dr DEAN (Berwick) — My question is to the Attorney-General. As yet he has not answered one question. If he would answer this one it would be most useful!

I refer to the fact that on 22 June last the Attorney-General appointed Ms Caitlin English as a magistrate and that Ms English was the partner of Andrew George, who just happened to be the legal partner of the Attorney-General's confidant — guess who — Labor lawyer Bob Stary, and I ask — —

Honourable members interjecting.

The SPEAKER — Order! The house will come to order!

Dr DEAN — Given that a major player — —

Mr Loney interjected.

The SPEAKER — Order! The honourable member for Geelong North! The house will come to order!

Dr DEAN — Would you like me to start the question again, Sir?

The SPEAKER — Order! The honourable member for Berwick may continue his question.

Dr DEAN — Do you want me to repeat the question, Sir, or will I just continue?

The SPEAKER — Order! I ask the honourable member for Berwick to continue asking his question.

Dr DEAN — I ask: given that only months after she had been appointed a magistrate the major player in the complaints against former Chief Magistrate Michael Adams was the same Ms Caitlin English, is it the case that the Attorney-General appointed her knowing that she would help execute his secret plans to remove Michael Adams?

The SPEAKER — Order! The house will come to order!

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Doncaster shall desist!

Mr HULLS (Attorney-General) — I say at the outset that it is very important for the house to understand that when we were in opposition — and I understand the nature of politics — we played it hard, but never once as shadow Attorney-General did I attempt to undermine the judiciary — —

Opposition members interjecting.

The SPEAKER — Order! The honourable member for Mordialloc!

Opposition members interjecting.

The SPEAKER — Order! The honourable member for Mornington!

Mr HULLS — Not only that, but the former Attorney-General Jan Wade made a number of judicial appointments and I was regularly asked by the media to comment on them. I made it quite clear that the appointment of members of the judiciary is above politics. I would have hoped that the opposition would take that view as well. However, the general nature of the question today shows quite clearly that the shadow Attorney-General does not understand the doctrine — —

Dr Dean — On a point of order on the grounds of relevance, Mr Speaker, this question was not about the bona fides of the Attorney-General in days gone past, because we all know the answer to that. This question simply asked whether he knew at the time he appointed a magistrate that she would help him in relation to a certain matter. I ask him to answer the question.

Mr Thwaites — On the point of order, Mr Speaker, there is a specific ruling in relation to making imputations against members of the judiciary or magistracy, and that is exactly what this honourable member is doing. It is very difficult for the Attorney-General, who is trying to be relevant and answer a question, when the honourable member has made imputations against a member of the magistracy, which is prohibited by the rules of this house.

Honourable members interjecting.

The SPEAKER — Order! The house will come to order!

Dr Napthine interjected.

The SPEAKER — Order! The Leader of the Opposition!

Mr Maclellan — So a Labor-appointed magistrate wishes to get rid of the Chief Magistrate — so what?

The SPEAKER — Order! The honourable member for Pakenham! I will not hesitate to use sessional order 10, even on him, if he continues to interject in that manner.

I do not uphold the point of order raised by the honourable member for Berwick. The Attorney-General was making his opening remarks in responding to the question. I do not consider them to be irrelevant.

Mr HULLS — I have in the past and will continue in the future to appoint people to the judiciary who are the best and brightest. I will appoint them on merit. In addition, all of the appointments that have been made to the Magistrates Court to date have been of the highest quality, and that includes Magistrate English. It demeans the shadow Attorney-General, firstly, to attempt to undermine the magistracy, and secondly, to be targeting a specific magistrate. The fact is that she is of the highest quality. If the Leader of the Opposition wants to show any leadership at all, he should censure his shadow Attorney-General for that question. It is just disgraceful!

Dr Dean interjected.

The SPEAKER — Order! The honourable member for Berwick!

Dr Dean interjected.

The SPEAKER — Order! I have asked the honourable member for Berwick to cease interjecting.

Coastal management: initiatives

Mr VINEY (Frankston East) — I refer the Minister for Environment and Conservation to the fact that today is World Environment Day. Will the minister inform the house of the latest action the government is taking to protect Victorian waterways and its marine environment?

Mr Leigh interjected.

The SPEAKER — Order! The honourable member for Mordialloc!

Mr Ryan interjected.

The SPEAKER — Order! The Leader of the National Party!

Ms GARBUTT (Minister for Environment and Conservation) — I thank the honourable member for Frankston East for his question and his considerable interest in the environment. The Bracks government has a clear and strong commitment to the environment. On World Environment Day it is appropriate to mark some of the significant achievements already clocked up by this government.

I mention, for example, the restoration of environmental flows to the Snowy River — 28 per cent in the longer term, 21 per cent in the next 10 years — and our statewide salinity framework, backed up by a commitment in the budget for $77.5 million worth of funding over the next four years. There is $2.5 million for the Gippsland Lakes rescue package, which is unprecedented, and a commitment to reuse 20 per cent of Melbourne's waste water over the next 10 years, and of course — —

Mr Perton — On a point of order on the issue of relevance, Mr Speaker, the question was quite clear. The honourable member for Frankston East wanted to know about the latest action taken by the minister. If the minister wants to have a debate about her environmental record, the opposition will accommodate her as part of a ministerial statement — and she can do it straight after question time if she wants to. However, on the question of relevance, the minister is clearly irrelevant and needs to answer the question asked.

The SPEAKER — Order! I do not uphold the point of order.

Ms GARBUTT — I was mentioning some of the achievements just to set the context for the government's latest effort. It is a long list. Obviously the shadow minister is absolutely not interested in what is happening in the environment.

Mr Perton interjected.

The SPEAKER — Order! I ask the honourable member for Doncaster to cease interjecting forthwith.

Opposition members interjecting.

Ms GARBUTT — Throw him out.

The SPEAKER — Order! The minister shall cease responding to those interjections.

Ms GARBUTT — I am happy to talk about the marine environment. We have on the table the proposal for marine national parks — a world first — but that is not our only commitment to improving the marine environment.

I mention, in particular, our attack on marine pests. This has been a favourite issue for the shadow minister, but I will not go down that path. We have a clear commitment to control marine pests, and others, and since coming to power we have put an additional $750 000 into controlling marine pests. That has leveraged another $500 000 from the federal government, the CSIRO and other agencies to apply to research and other related activities.

We have also started a national demonstration program at the port of Hastings to control and stop any new introductions of marine pests. As well as that, I am pleased to inform the house of a $22.5 million stormwater action program aimed at cleaning up our waterways. Since that water flows directly into our beaches, bays and oceans, the program also impacts on our attempts to clean up our marine environment.

Grants totalling $1.6 million will go to suburbs around the coastline, which will directly impact and clean up our marine environment. I will mention just a few because there is a long list of grants making up the $1.6 million. The Mornington Peninsula Shire Council will receive $130 000 to implement litter reduction through litter traps, education, and community activities. That has a total project value of $315 000. Some $258 000 will be provided to the City of Kingston to clean up the Mordialloc Creek. That will reduce most of the impact of that creek on our bayside beaches. That will leverage further investment, making a total of $427 000.

Of other projects around the coastline that will attract funding, Glenelg Shire Council, for example, will receive $22 500 to develop a stormwater management program. The shire is also putting in, taking the total project value to $44 500. Picking at random one other project, Warrnambool City Council will receive a $20 000 grant for the development of its stormwater management plan, and again the council is partnering up and putting in, making a total of $40 000. A whole range of activities are under way that will improve marine environments and make sure they are there in the future for our children to enjoy.

Attorney-General: former Chief Magistrate

Dr DEAN (Berwick) — My question is again to the Attorney-General, and this time it is a nice, easy one. I refer to the meeting of magistrates where the vote of no confidence in Michael Adams was taken, where a

senior magistrate stated to the meeting, 'This motion is what the Attorney-General wants'. Was this senior magistrate wrong, or did the Attorney-General want the motion to pass, and was the magistrate simply playing out his part in helping you remove the Chief Magistrate?

The SPEAKER — Order! I ask the honourable member for Berwick to rephrase the latter part of his question in the third person.

Dr DEAN — Was this senior magistrate wrong, or did the Attorney-General want the motion to pass, and was the magistrate simply playing out the Attorney-General's part in helping the Attorney-General to remove Michael Adams?

Mr HULLS (Attorney-General) — The process that was followed in relation to former Chief Magistrate Adams was the appropriate course to follow. An article that appeared in the *Australian* last year in relation to the process said:

> The proper process for any magistrate who had a complaint would be to bring it to the attention of the Attorney-General in writing, [and] for the Attorney-General to ask for a response from Mr Adams and have the matter investigated if necessary.

That was the process that was followed. Do honourable members know who those words came from? They came from Jan Wade, the former Attorney-General. She agreed with the process that was followed; she said that was the process that ought to be followed. That is the process that was followed.

Mr McArthur interjected.

The SPEAKER — Order! the honourable member for Monbulk!

Housing: environmental initiatives

Mr LEIGHTON (Preston) — I ask the Minister for Housing to inform the house how the government is promoting the environment through its public housing strategies.

Ms PIKE (Minister for Housing) — World Environment Day gives us the opportunity to highlight the Bracks government's commitment to protecting our natural environment, ecologically sustainable development and the improvement of housing design to reduce energy consumption. Victorian social and public housing developments are now leading the way in promoting better environmental outcomes. That is good news for the environment and good news for Victorians — and for people living in public housing it is also an opportunity to conserve energy and reduce their energy bills.

In partnership with my ministerial colleagues the Minister for Energy and Resources and the Minister for Environment and Conservation, the housing portfolio has now implemented a range of significant initiatives. Firstly, all new social housing developments will use environmental design principles to reduce energy consumption and energy bills. For example, the new social housing developments in Port Melbourne, Kensington, Richmond, Carlton, Geelong, Shepparton, Bendigo and Windsor, among others, will incorporate the principles of passive solar design, look at the possibility of grey water usage and promote four and five-star energy ratings.

Secondly, over the next three years the government will provide at least 600 new solar hot water systems to social housing projects. Of those, 200 have already been put in place in Bendigo, Geelong, Braybrook, Mildura and Chadstone, and the other 400 will roll out over the next couple of years. The installation of rainwater tanks will be included in the Bendigo and Shepparton developments.

Apart from those particular initiatives, the government is also leading both the public and private sector in the use of innovative and environmentally sustainable design features, which is a significant leadership role for government to take. We are working with the building industry and the Royal Australian Institute of Architects. Recently a competition was run — first prize was $50 000 — where people were given the opportunity to design 100 new social housing units for low-income Victorians on a site in Windsor. In their operation the houses had to use no non-renewable energy and at least 50 per cent less water than other comparable conventional houses, and they had to be sustainable for 200 years.

The competition was warmly welcomed; nearly every architectural firm in Victoria submitted an application. The competition enhanced our leadership role, and the knowledge gained from it will have enormous application and benefits throughout both public and private housing developments in Victoria.

Over the coming years, the Office of Housing will continue to review its upgrade policies and will continue with its important role as a leader in energy efficiency. Over the past few years people working in environmental sustainability within the Office of Housing have been disappointed that their role had not been respected and encouraged. The government is certainly boosting its commitment in this area. I am

personally committed to it, and the Bracks government is fundamentally supportive and proud of it. It is good news for Victoria.

PETITIONS

The Clerk — I have received the following petitions for presentation to Parliament:

Cooks Mill camping area

To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled:

The humble petition of the undersigned citizens of the state of Victoria sheweth that Cathedral Softwoods Pty Ltd, the owner of a private pine plantation within the Cathedral Range State Park, has indicated willingness to sell the 10-hectare private property to the government.

Your petitioners therefore pray that the government seize this opportunity to purchase the property, which may not occur again for many years.

Acquisition of this land would enable the long-planned transfer of the Cooks Mill camping area from the sensitive Little River banks. Further we would request that the logging of this area should be strictly supervised by Department of Natural Resources and Environment.

And your petitioners, as in duty bound, will ever pray.

By Ms ALLEN (Benalla) (298 signatures)

Berwick Primary School

To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled:

The humble petition of the undersigned citizens of the state of Victoria sheweth that the Berwick Primary School council has unanimously moved a vote of no confidence in the Minister for Education and the Department of Education, Employment and Training, which is supported by the school community, because of the continuing failure to relocate Berwick Primary School.

Your petitioners therefore pray that immediate action will be taken to facilitate the already promised relocation of Berwick Primary School.

And your petitioners, as in duty bound, will ever pray.

By Dr DEAN (Berwick) (658 signatures)

Laid on table.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 7

Ms GILLETT (Werribee) presented *Alert Digest* No. 7 of 2001 on:

Corrections (Custody) Bill
Corrections and Sentencing Acts (Home Detention) Bill
House Contracts Guarantee (HIH) Bill
National Parks (Marine National Parks and Marine Sanctuaries) Bill
Post Compulsory Education Acts (Amendment) Bill

together with appendices.

Laid on table.

Ordered to be printed.

BLF CUSTODIAN

51st report

The SPEAKER presented report given to him pursuant to section 7A of BLF (De-recognition) Act 1985 by the custodian appointed under section 7(1) of that act.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

National Parks Act 1975 — Advice of the National Parks Advisory Council pursuant to s 11(3)

Planning and Environment Act 1987: Notices of approval of amendments to the following Planning Schemes:

Darebin Planning Scheme — No C30

Greater Bendigo Planning Scheme — No C10

Melbourne Planning Scheme — No C12

Moorabool Planning Scheme — No C7

Yarra Planning Scheme — No C27

Psychologists Registration Board — Report for the year 2000

The following proclamations fixing operative dates were laid upon the Table by the Clerk pursuant to an Order of the House dated 3 November 1999:

Racing and Betting Acts (Amendment) Act 2001 — Sections 3, 4, 5, 6, 7, 8, 9, 13, 24, 25, 26 and Part 3 (except for section 35) on 31 May 2001 *(Gazette 22, 31 May 2001)*

Transport Accident (Amendment) Act 2000 — Sections 34 and 35 on 1 July 2001 *(Gazette 22, 31 May 2001)*.

APPROPRIATION MESSAGE

Message read recommending appropriation for House Contracts Guarantee (HIH) Bill.

BUSINESS OF THE HOUSE

Program

Mr BATCHELOR (Minister for Transport) — I move:

That, pursuant to sessional order no. 6(3), the orders of the day, government business, relating to the following bills be considered and completed by 4.00 p.m. on Thursday, 7 June 2001:

House Contracts Guarantee (HIH) Bill

Racial and Religious Tolerance Bill

Duties (Amendment) Bill

State Taxation Acts (Taxation Reform Implementation) Bill

Victorian Managed Insurance Authority (Amendment) Bill

Transfer of Land (Amendment) Bill

Land Surveying Bill

In moving the government business program it is incumbent on me to advise the house that in addition to the legislative program set out in the motion, the government intends to provide as much time possible for consideration of the appropriation bill and will work with the other parties to achieve that. The opposition has assisted in bringing forward the House Contracts Guarantee (HIH) Bill. I thank opposition members for that, particularly the shadow Treasurer, who has done a fine job there.

To assist honourable members and staff in planning the remainder of the week, it could be there will be late-night sittings on any of the sitting days this week. The government will advise the house accordingly. An ambitious legislative program has been set by the government for this week, as well as an ambitious target of getting through members' contributions on the appropriation bill, and it could be that the house will sit late on any or all of the three sitting days.

Mr McARTHUR (Monbulk) — The Liberal Party will not be opposing the government business program. There has been some discussion with the Leader of the House about the bills scheduled for this week and the time agreed to for debate. As he has pointed out, it means that a number of honourable members will be giving up some of the time they would have liked to put into debates on some of the legislation. It is a pity that has to be done, but it is entirely because the government has yet again failed to get its business program in order and has been unable to convince the public service of the need to have legislation introduced in a steady fashion. Either that or the Leader or the House and the Premier were unable to convince their cabinet colleagues of the need to get enough legislation ready at the start of the session.

The opposition has raised this issue several times. The Leader of the House has been remarkably unsuccessful in resolving the problem, despite the fact that for many years the Labor Party campaigned on and bleated about the issue of family-friendly hours. I recall the honourable member for Altona, as she then was, often lamenting the lack of family-friendly hours. The honourable member for Gippsland West also did a bit of that herself, but has been strangely silent on the issue since September 1999.

The honourable member for Altona, who is now the Minister for Finance, might have a role to play at the cabinet table in encouraging her colleagues to get their acts together and introduce their bills so we can all debate them normally and reasonably and go home at the normal time — 11 o'clock or thereabouts on Tuesdays and Wednesdays and 5 or 6 o'clock on Thursdays. Instead something like 28 or 30 bills are to be debated in the last three weeks of the session, plus the budget, which is the major parliamentary debate for the year and one in which all members like to take a full part.

Yet again, some members will probably miss out on debating the budget, and by agreement a significant number of members will have to cut short the time they spend debating the budget. That is a pity. I regret it, and I would rather it were done some other way — but it is entirely the doing of government ministers. They can manage this by getting their legislation in on time. However, if they do not, there is an alternative: they could decide to sit another week or two, although it would expose this hapless Attorney-General to more scrutiny during question time and expose him to questions from the media on his role in the Adams affair, which he seeks to avoid. I would not be surprised if he is one of the ministers who scurries overseas to warmer climes during the winter recess. I know the Premier and Treasurer are going, as are a number of

other ministers. I imagine the Attorney-General is looking forward to his retreat as well.

The Leader of the House can resolve this problem and make the management of government business more sensible by bringing legislation into the house early in the session. Because the government today gave notice of introducing only three bills, I fear it is in danger of repeating this mistake. The Legislative Assembly is sitting only one more week. If the government does not bring in more bills next week, we will have a short notice paper indeed when we come back in the spring. However, in the early stages of next session we may face the same dilemma of endlessly debating trivial legislation to no good purpose, while at the end of the session truncating debate on important things, disrupting the house and denying it a democratic and reasonable means of handling legislation. This matter is in the hands of the Leader of the House and the Premier. They should attend to it and improve their performance.

Mr MAUGHAN (Rodney) — The National Party will not be opposing the government's business program of the bills that have been set forward by the Leader of the House. I hope we can repeat the procedure that we followed last week and have the lead speakers of both the Liberal Party and the National Party speaking on all seven pieces of legislation and confining their comments to matters of major importance so we can see what time is available for other members to choose which bills they want to speak on.

The National Party believes the appropriation bills are the measures that all honourable members wish to speak on. I understand that because we have limited time this week and next week is the last scheduled sitting week for the house, we will be restricted on the time we have available to debate the appropriation bills, let alone the other important bills before the house. Obviously a number of people will want to speak on the House Contracts Guarantee (HIH) Bill. The Racial and Religious Tolerance Bill is a very divisive piece of legislation on which there are some strongly held views in the community and on which members on both sides of the house would welcome the opportunity to express views on behalf of their constituents. Unfortunately, because of the way the business program is organised by the government, honourable members will not have that opportunity.

I share the sentiments expressed by the honourable member for Monbulk when he reminded the house that in opposition the present Leader of the House and members of the government railed against the previous government's business program. We are seeing history repeated. I notice that the honourable member for Gippsland West and the Minister for Finance are silent on the family-friendly hours that they made so much of during the time of the previous government.

Ms Davies — On a point of order, Mr Speaker, I ask for your guidance. I believe the honourable member for Rodney has made an incorrect statement. I have never discussed — —

Honourable members interjecting.

Ms Davies — I ask for your guidance — —

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Gippsland West! There is no point of order. The honourable member used the taking of a point of order to make a point in debate. She can have the call once the honourable member for Rodney has concluded his remarks.

Mr MAUGHAN — I think we all favour family-friendly hours, if we are able to achieve that, and we should collectively work towards achieving it. I think we can, with cooperation, so I hope there will be cooperation between the major players to enable us to achieve that. However, as I said, it is unfortunate that we are going to be restricted on the time we have to debate, particularly, the appropriation bills. It is most important that country members — —

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Prahran!

Mr Cooper — She thinks that because she's small she can get away with it!

The SPEAKER — Order! The honourable member for Mornington!

Mr MAUGHAN — It is important. The Leader of the House suggested that we will probably be sitting late tonight and tomorrow night and perhaps Thursday night. From the National Party's point of view and speaking on behalf of all country members, I reject that notion because we want to get back to our electorates. It is not simply a matter of getting home; it is being able to leave here at a reasonable time to get back to our electorates. If we really have to provide more time to debate the legislation, I suggest the government ought to look at sitting another week. Members of the government talk very strongly about — —

Honourable members interjecting.

Mr MAUGHAN — It is up to the government to get its legislation through. We are talking about open and accountable government and democracy. We should have the opportunity to debate legislation in the house. I hope by agreement we can get through the business program, give everybody the opportunity they want to speak and still not sit the ridiculous hours that it looks as if we are going to sit.

Ms DAVIES (Gippsland West) — Just as a very brief comment: as much as I hate staying up too late to debate issues when members tend to get fractious and irritable with late hours, might I say that I support the extension of the hours rather than the addition of a sitting day. I have had a constant barrage of statements from people referring to me as the member for Gippsland West and mentioning family-friendly hours in one breath. I am a mother and a rural member of Parliament and so sitting another day is much more onerous for me and my children than my becoming cranky and irritable occasionally because we have been up too late at night.

I welcome the government's business program and extending the hours if indeed it means that more people get a chance to speak on each bill. May I ask the lead speakers of the opposition and the National Party not to abuse their unlimited speaking time and make sure their comments make sense and add to the debate, rather than merely using up time, which is what happens sometimes.

Motion agreed to.

MEMBERS STATEMENTS

Peninsula Health

The SPEAKER — Order! The honourable member for Frankston.

Ms McCALL (Frankston) — And the real member for Frankston, may I say. As the honourable member for Frankston since 1996 — and long may I continue to be so — I served on the community advisory committee of the former Peninsula Health Care Network. I made a very positive contribution to that community health network. It was an opportunity for me to meet with community representatives and also to hear about issues from within the hospital — may I say a hospital that I never criticised, but the current member for Frankston East took great delight in doing so.

Recently I applied for reappointment to the community advisory committee and received the following letter. I will not read it all, but it states in part:

> As we are able to exchange information with your office at any time, we hope you will understand our decision not to consider your application as successful, on this occasion.

As a member of the opposition, with an 'open and accountable' Labor government on the other side, I smelt the fickle finger of the Labor Party. I noticed that the letter was signed by none other than the former mayor of the Shire of Mornington Peninsula, the Labor supporter, Judith Couacaud-Graley, who has obviously clearly decided that open and accountable government does not stretch as far as keeping the opposition informed about their hospital and their community.

Tullamarine: emergency services

Ms BEATTIE (Tullamarine) — Last weekend the emergency services in the Tullamarine electorate were stretched to the limit. On Friday night a toyshop in Sunbury caught fire and was entirely ruined, having burnt to the ground. The training and practices of the Sunbury CFA prevented more properties from being lost. However, on Saturday night a house in Barkly Street caught fire and, tragically, a mother and her five-month-old son were killed.

I want to place on record my personal thanks to the neighbours who tried to quell the inferno before the emergency services arrived. The CFA brigades from Sunbury, Greenvale, Bulla and Diggers Rest fought the blaze alongside the Metropolitan Fire Brigade. The State Emergency Service, ambulance services and paramedics also looked after the rest of the family and made the property safe. Those brave men and women fought an extraordinarily ferocious blaze to save other family members.

I ask the family members and members of their religious group to accept my condolences. I also extend the thanks of the entire Tullamarine community to those brave men and women who answered the call and put their own lives at risk to make others safe. I pay tribute to them.

The SPEAKER — Order! The honourable member's time has expired.

Rodney: electorate name

Mr MAUGHAN (Rodney) — I wish to advise the house that I have written to the Electoral Boundaries Commission proposing that the new Rodney electorate be renamed Campaspe. The name Rodney, which is

one of only four electorate names to have survived all electoral redivisions since the establishment of responsible government in Victoria in 1856, no longer has any significance.

The name Rodney gives no idea of the geographic location of the electorate, which contains the whole of the very vibrant Shire of Campaspe and under the new boundaries proposed by the Electoral Boundaries Commission has the Campaspe River running through the electorate, from its southernmost extremity south of Redesdale, through Elmore and Rochester to the junction of the Murray River at Echuca. The name Campaspe therefore immediately associates the electorate with the Campaspe River and the Shire of Campaspe.

A name that is common to both the municipality and the electorate will assist in promoting the area as the largest and by far the most important dairying electorate in the whole of Australia, and will reinforce the message that the Shire of Campaspe and the Rodney electorate are the real food bowl of northern Victoria, containing the major food processors such as Bonlac Foods Ltd, Murray Goulburn Cooperative Ltd, Nestlé, Heinz, Sedenco, Henry Jones Foods and IXL, as well as a buoyant tourism industry and a very significant and rapidly expanding viticulture industry.

Kingston: village committees

Mr LIM (Clayton) — I share with the house what I believe to be a most inclusive and democratic system of governance set up by the City of Kingston. I refer to the city's village committees.

We are all most familiar with the three tiers of government, but the City of Kingston came up with a de facto fourth tier of governance, which involves people at the grassroots level. Members of the village committee are drawn from the ranks of ordinary folks in their immediate neighbourhood who care enough about their 'villages', which are the subdivisions of the local ward.

Such an inclusive set-up has the effect of encouraging genuine partnership and participatory decision-making processes whereby members of the village committees are empowered to directly influence the conduct of their councillors and the bureaucrats of the council. The village committees are involved in a whole range of issues, ranging from local planning matters to community group funding allocations and organising local festivities. They feel pride that they are able to share responsibility in the running of the city.

The village committee therefore acts as an effective conduit between the local community and the council on all matters of concern. I congratulate the City of Kingston on such a unique and fantastic set-up. All other councils should follow suit.

This is a far cry from what I have seen in the neighbouring councils. One of them at least has a continuing problem in relation to the aspirations and expectations of its ratepayers and ends up in a perpetually confrontational relationship.

Castlemaine preschool

Mrs ELLIOTT (Mooroolbark) — The Minister for Community Services has said that she is committed to actions speaking louder than words. She has also said that every preschool in the state has a fully qualified preschool teacher. Moreover, last week in the house she said that Castlemaine preschool has been offered three fully qualified preschool teachers by the Department of Human Services (DHS) to fill vacancies at the kindergarten.

I have been informed both verbally and in writing by people from the Castlemaine preschool that on 7 May 2001 they interviewed a teacher provided by DHS and that she commenced part-time employment on 8 May. The details of a second teacher were provided on 17 May, but this teacher withdrew her application on 21 May. No further teachers have been provided by DHS.

The shortfall in staffing is currently being covered by a primary trained teacher who does not have or qualify for an exemption under the current rules and who is also employed part time. The committee has independently advertised three times statewide for qualified teachers without response.

If the minister and her department have another two qualified preschool teachers she should immediately give their names to Castlemaine preschool so children there can enjoy the remainder of the year with a stable staffing situation, and so that the minister can avoid the impression that she may have misled the house.

Robyn Roberts and Jane Crone

Mr LANGDON (Ivanhoe) — I congratulate two members of my electorate — Robyn Roberts and Jane Crone — on their hard work in defending the Ivanhoe electorate from the former *Good Design Guide*. These people have spent countless hours — more hours than I could imagine — working to protect the historic heritage of Heidelberg, Eaglemont, and Ivanhoe. They have attended numerous meetings and made countless

representations at the Victorian and Civil Administrative Tribunal (VCAT) and many other places.

I am pleased to say that they have received at least some recognition — apart from in this house — in the daily papers. An article in the *Age* of 25 May mentioned both Jane Crone and Robyn Roberts for their work. The *Age* article stated:

> Miss Roberts, convenor of the Banyule planning network, praised the consultation process.

The article went on to state how many hours she had worked on the process.

> Jane Crone, for example, spent countless hours — up to 8 hours a day — at VCAT hearings and looking after the heritage issues.

The *Heidelberger* of 15 May also showed these women on its front page as it discussed amendment C1, affecting the City of Banyule's planning scheme, bringing in the heritage listings and so on. The front page article gives them credit, along with Rowan Harrison, Linda Cuthbertson and Clare Harrison. Again I praise these people. They have done an outstanding job and the house should recognise them.

Peninsula Health

Mr COOPER (Mornington) — I express my disappointment and regret over the matter raised by the honourable member for Frankston that after five years of excellent service on an advisory committee of the former Peninsula Health Care Network her application to continue on that committee has been unceremoniously rejected by a Labor Party councillor, Judith Couacaud-Graley, who has taken it upon herself to wipe out this excellent and dedicated service given by the honourable member for Frankston over a long period.

This is no doubt a political decision by Cr Couacaud-Graley, who has overt political ambitions, and clearly sees no place in this world for anybody from another political party. It is not only a political decision by this councillor but a disgraceful one, which she will live to regret. You cannot toss away the expertise and dedication of people like Andrea McCall, the honourable member for Frankston, from something like the local hospital advisory committee and expect that the community will not react in a very strong way.

I sympathise with the honourable member for Frankston, and I join her in expressing extreme regret at this disgraceful action by Cr Judith Couacaud-Graley.

Sunshine Garden Club

Mr LANGUILLER (Sunshine) — I commend the Sunshine Garden Club on its 80th annual show. When it first held its show it was called the Royal Horticultural Society of Victoria, and I am informed by Mr Evans of Braybrook that it started in around 1921 in the old town hall in Hampshire Road; the site is now a well-known park in the area.

The Sunshine Garden Club has held 80 annual shows consecutively, including during such difficult periods as the Great Depression and World War II. The club members exchange gardening ideas and once a year put on an exhibition to highlight the good aspects of horticulture in Sunshine and the western suburbs.

Past presidents, secretaries and committee members have been among the greatest gardeners and exhibitors in Victoria and Australia. They have specialised in roses, cut flowers, pot plants, floral art and fruit and vegetables grown in local gardens, often to supplement the family's food during difficult times.

I commend the Sunshine Garden Club, its members and its president, Mr Chris Michalopoulos, and wish them all many years of good health and ongoing success.

Target Australia: Geelong closure

Mr PATERSON (South Barwon) — Staff at Target's head office in Geelong continue to be nervous about their future despite the parent company, Coles Myer, indicating that the current widespread fears about job prospects are misplaced.

Some weeks ago I sought assurances from Coles Myer. A spokesman told me then that nothing was planned that would affect the head office; however, staff remain sceptical of the statements coming from corporate headquarters.

Regrettably it has taken until last Friday for local Labor MPs to bother to seek assurances from Coles Myer. Of even greater regret is the disinterest shown in this issue by the government at senior levels. Perhaps the government has other priorities than ensuring the future of around 900 jobs in Geelong.

It is about time this government took regional Victoria seriously and sought guarantees that Target's head office in Geelong will not suffer any loss of jobs whatsoever.

Alan Coad

Mr ROBINSON (Mitcham) — I place on record my congratulations to Mr Alan Coad, a resident of Mitcham, whose untiring efforts assisted the development of solutions for salinity in agricultural land in northern Victoria.

Mr Coad arrived in Australia in 1950, took out citizenship in 1975, and has been participating, as the honourable member for Swan Hill would no doubt testify, in successful farm-scale reclamation in the Pyramid Hill region.

He is now involved in similar work with the Kerang–Cohuna reclamation project. The project aims over five years to reclaim 50 000 hectares of land affected by various degrees of salinity due to the shallow water table. We hope that will involve the pumping of 900 megalitres a year of strong brine from a very large prior river, 16 to 19 metres below the surface.

Salinity is a significant problem in Victoria. A recent report entitled *A Summary of the National Land and Water Resources Audit's Australian Dryland Salinity Assessment 2000* estimated that between 8 per cent and 18 per cent of Victoria's agricultural land is predicted to be at high salinity risk, with as much as 47 per cent at moderate risk.

Mr Coad and others are carrying out invaluable work that will assist in the long-term development of agriculture and land management in the state. He and others involved with his work are to be commended.

St Stephen's Anglican Kindergarten

Ms ASHER (Brighton) — I would like to encourage the Minister for Community Services to allocate capital funding for kindergartens, in particular the St Stephen's Anglican Kindergarten in Brighton. As the minister is aware, a number of kindergartens are located on church land and the churches for one reason or another wish to use the land for another purpose. This is presenting a real problem in the Brighton area, and while the government has so much capital funding available I would urge the minister to provide some for my electorate.

The ACTING SPEAKER (Mr Lupton) — Order! The time for member's statements has expired.

HOUSE CONTRACTS GUARANTEE (HIH) BILL

Second reading

Debate resumed from 31 May; motion of Ms KOSKY (Minister for Finance).

Ms ASHER (Brighton) — I will try to make my comments fairly brief, in the interests of honourable members being allowed an opportunity to comment on the budget documents, notwithstanding that the issue before the house is a particularly significant one and the bill was read a second time only on Thursday. The opposition and the National Party have agreed to an expedited carriage of the bill through the Parliament to allow funds to flow and to allow certainty, particularly in the real estate industry, and greater certainty than previously existed in the building industry.

There is no doubt that as a direct consequence of the HIH Insurance Group (HIH) collapse there has been a crisis in the building industry and in consumers' lives. I note in the second-reading speech that the minister used the term 'moral responsibility'. The government has a moral responsibility to address some of the circumstances impacting on people's lives and livelihoods.

The purpose of the bill is to establish an indemnity scheme. It partially addresses some of the problems that have occurred as a direct consequence of the collapse of HIH. The objective of the people drafting the bill has been to have a seamless transition in the handling of claims from HIH to the new system.

I will touch on some of the main features of the bill and a couple of areas where the opposition thinks the government should have gone further. As far as it goes, the package has addressed some of the issues of concern, but the government could have done a lot more and sooner.

The main purpose of the bill is to establish a Domestic Building (HIH) Indemnity Fund to be administered by the Housing Guarantee Fund Ltd (HGFL). The opposition has been advised that staff expertise still exists at the HGFL and that it is the appropriate body to carry out the new indemnity scheme. The indemnity fund will cover completed properties and works in progress in Victoria previously insured by HIH provided that the building permit was obtained before 30 April and work commenced before 31 May.

The works in progress issue is one that has been of particular importance to the building industry. This indemnity fund will give a great deal of comfort to

consumers with completed homes or to those who have had extensions built in recent times that may have had HIH warranties attached to them. The guarantees will be honoured. The HGFL will be given powers, in a colloquial sense, to act almost as HIH did in the administration of claims — but no further, I hope: to ask builders to rectify work, to recover money from builders, to indemnify claims for consumers and so on.

I want to make a couple of comments about the funding and seek some assurances from the minister. The minister briefed the opposition last Tuesday, two days prior to the bill being read a second time, and it may not have been possible to convey to the opposition all the information it sought. I raise the issue of the budget for this bill in that spirit and seek some assurances from the minister.

The second-reading speech clearly outlined that the indemnity scheme is to be 50 per cent funded by the taxpayers and 50 per cent funded via an additional building permit levy of $32 per $100 000 value of domestic building works. The government's estimate of the total cost of the scheme is $35 million net. Again, the government has made it clear that, while it hopes to recover funding from the liquidator, it has put forward a funding estimate based on what it considers realistic — I am trying not to be too blunt.

According to the second-reading speech it is estimated that the building levy will raise $2 million a year. The government has given an undertaking that the fund will be closely monitored and reported on publicly to ensure that the fifty-fifty balance between the additional building permit levy and the taxpayer contribution remains at 50 per cent. At the briefing the opposition was told that the first year of taxpayer funding would come by way of a Treasurer's advance and that subsequent years of funding would come via an annual appropriation.

The opposition was also advised that the government expected to have a far greater number of claims in the first few years. Indeed, the estimate was — I would not hold the officers to it — that 70 to 80 per cent of claims would come in the first few years, and the first year cost was anticipated to be in the order of $12 million. The opposition has been briefed that the government expects the taxpayer contribution to be larger in the earlier years and lesser in the latter years of the scheme, when the income flow from the building permits will provide the funding.

I am seeking an assurance from the minister about transparency. It will be difficult to get full funding accountability if funding comes by way of a Treasurer's advance. I seek from her a disclosure, suitably made in the Parliament, of the amount of the Treasurer's advance in the first year, and also that the funding put into the scheme subsequently will be transparent. I would have thought from the advice the opposition has received there would be an annual appropriation, which would obviously provide the sort of transparency the opposition is seeking, rather than a simple tabling of annual reports in Parliament, which often comes a significant time after the expiration of events. The funding also provides some relief for the Avonwood Homes people, and quite correctly quarantines the Housing Guarantee Fund's asset base from the new claims scheme.

The bill amends section 32 of the Sale of Land Act to validate, if you like, section 32 certificates to allow properties affected by the HIH collapse to be auctioned lawfully without legal query. The opposition has been advised that people are querying section 32 certificates, which has the potential to have an impact on the real estate market. Knowing, as I do, how dependent this government is on stamp duty revenues, I know there is an element of self-interest in that, but there is also a broader community and economic interest in ensuring that auctions and other sales of homes are able to proceed without legal query.

The scheme will indemnify any person who is entitled to an indemnity under a HIH policy on building work covered by the fund. It does not cover builders, owner-builders or people who are insured under other insurance policies. The scheme certainly does not allow the reopening of cases on which a final determination has been made, and quite sensibly it applies only to Victoria.

Claimants who receive indemnities will be required to assign their rights to Housing Guarantee Fund Ltd (HGFL), which is reasonable and proper and something the opposition would expect the government to do.

The Housing Guarantee Fund will be given a broad range of powers that largely equate with the powers insurers have, which will enable the fund to require a builder to rectify or complete work or to recover moneys from builders, and so on. An offence will be created of making false statements, which again is only reasonable under the circumstances.

I return to the issue of transparency. The bill provides for the accounts of the indemnity fund to be audited on an annual basis by the Auditor-General, and the HGFL must report on the fund in its annual report. There are strict limits on the minister relating to the presentation of those reports to Parliament. Given the special

circumstances of these schemes, those provisions are appropriate.

Importantly the Building Act will be amended to enable the deferral of suspension of a builder's registration if the builder has applied for insurance but has not obtained it because the insurer has not yet made a decision on the issuing of it. The building industry has pressed for that, at least in part, since the collapse of HIH. Under the bill the government will allow the deferral of suspension until 31 July 2001. The opposition has some concerns about whether that cut-off date is adequate, because it has received advice — not from the bureaucracy but from people in the field from the two companies that are foremost in issuing insurance — that the flow of insurance after the HIH collapse has been very slow.

Many builders in Victoria are not convinced that policies will be rewritten at the speed required to meet that 31 July cut-off date. The opposition has been advised that date has been set in conjunction with Dexta Corporation Ltd, Royal-Sun Alliance and others, and I seek an assurance from the minister that that is reasonable. The opposition certainly has some reservations about that date, given the slow rate at which reinsurance has been written to date. The bill allows for suspensions of registration for other reasons, but it is an attempt to address the difficulties and slowness in getting reinsurance premiums written.

The scheme will sunset on 30 June 2010, although there is provision in the bill for it to be wound up earlier if that is deemed to be appropriate. However, there are some deficiencies in the scheme, which I will touch on quickly. The first deficiency is the issue of lateness. I recall vividly an interview between the Minister for Finance and Neil Mitchell on 3AW during which she was most reluctant to admit the government had a role in it. If this package had been put together earlier — although I understand it is a difficult one to put together — a lot of angst that has been created among consumers and in the building industry may have been avoided.

The second deficiency in the package is on the issue of stamp duty. Builders pay a 10 per cent stamp duty on insurance premiums, and a builder, who we hope will now move on to get new insurance, will still have to pay stamp duty, so there is an issue of double taxation — double stamp duty. The Premier has said, 'That is worth only about $1 million', but the principle is important because the government will benefit financially, in part because of that double take on stamp duty.

While it is not the most pressing issue with which builders have to contend, it would have been an appropriate gesture by the government to forgo those revenues, as has the New South Wales Labor government. The New South Wales Treasurer, the Honourable Michael Egan, issued a press statement some time ago indicating that the New South Wales government was prepared to forgo stamp duty as a gesture to builders so as not to charge them twice. The opposition believes the Victorian government, given its fortunate financial circumstances, should also have made that gesture.

Another deficiency of the scheme is that it does not assist builders to commence work on new projects if they cannot obtain insurance for those projects. In other words, the bill allows builders without insurance to complete works in progress, but they cannot commence new projects. It has been strongly put to the opposition that those new projects will often be the basis of the builders' financial credentials. No doubt it is a deficiency, and the opposition seeks an assurance from the minister that if the legislation proves to be deficient it will be revisited.

If builders cannot gain cover by 31 July — this is the key point of the opposition's concern — they will lose registration. The reasons why builders are not able to obtain insurance by 31 July may be well beyond their control. The companies' response so far has been very slow. The opposition understands that the private insurance companies have been involved in setting this date, but a lot of paperwork needs to be done — indeed a lot of paperwork ought to have been done, judging by the practices of HIH. The opposition is concerned that builders who are in genuine need and who could qualify for insurance may not meet the 31 July deadline through no fault of their own but because of the difficulties faced by insurance companies in dealing with such a significant amount of paperwork.

In her second-reading speech the minister states that the bill addresses the difficulties faced by some builders in obtaining ongoing cover for new building work. However, that issue is not addressed in the bill. The Master Builders Association (MBA) has suggested a scheme of interim cover — a type of 60-day cover — that is not a feature of the bill. The opposition requests an assurance from the minister that she believes the private insurance companies have the capacity to write at the necessary speed!

The MBA is also concerned. It wants to be assured — the opposition knows the association has raised this issue with the minister — that the Housing Guarantee Fund is obligated to give a builder what it has termed a

first refusal before paying the owner and then recovering the money from the builder. It has drafted an amendment which reflects that concern and which the opposition knows has been forwarded to the minister. The MBA wants the builder to always be given an opportunity to address any issues of concern.

The opposition understands that the government will not be moving to amend the bill along those lines, but it does not want to hold up funding flows by seeking amendments. It thanks the minister for making her staff available to run through some of the issues, and it understands the point being made that this would legislate for something more than HIH had in terms of powers. It also understands the explanation conveyed to it that the government is prepared to consider this broad-type concern as part of the minister's approval of procedures under the bill.

The opposition seeks an assurance from the minister that the MBA receives the outcome it wants. The means are one thing, but the opposition is more interested in the outcome, which is that the MBA wants the builder to have first refusal on any work in question, which is a reasonable request. The opposition asks the minister to assure the house that she has considered the MBA's amendment and indicate whether she intends to address the issue — and if so, how she intends to address it to give a fair outcome to those builders.

The Law Institute of Victoria has also raised issues of concern. Again, the opposition understands that it has sent an email outlining its concerns to the minister. I thank the law institute for its willingness to comment on the bill so quickly.

In particular it is uneasy about amendments to section 32 of the Sale of Land Act, and I ask the minister if she is able to respond to the law institute. It claims that section 32(1A)(c) requires disclosure of insurance in the case of a residence to which section 137B of the Building Act applies. The law institute has advised the opposition that that section does not apply to the construction of a home under a domestic building contract. It goes on to argue that if there is a major building contract, insurance is required. However, because section 137B applies to owner-builders, in most cases that insurance does not have to be disclosed in the section 32 statement. The law institute says that this is because most homes are built by registered builders under major domestic building contracts, not by owner-builders. I seek a comment from the minister on the law institute's concern.

The institute has also raised a number of other issues, one of which I wish to place on the record and on which I seek a comment from the minister — that is, cases where HIH was a co-insurer. The law institute has set up a task force to examine the issue of the HIH collapse. Its task force understands that the new section may not apply to the area of co-insurance. The opposition would be grateful if the minister would give some comfort to the law institute by saying that that is in hand or will be in hand or is able to be addressed in some way.

The opposition understands there is significant urgency attached to this bill, which is why it has tried to be as cooperative as possible. In fact, it has gone out of its way to schedule meetings. I thank the Minister for Finance for her briefing in advance — a very rare occurrence. As I said on Thursday, when oppositions are taken into confidence and trusted with bills and second-reading speeches in the interest of good outcomes for the community, it is possible to have both sides of politics working to get a good outcome.

I am particularly concerned about the Avonwood claims and their urgency, and the claims that have been lodged at HIH. Under other circumstances I would have made some comment about the government's advertisements pre-empting the passage of the bill through the Parliament, but not under these circumstances: the opposition had clearly indicated that it would not be opposing the bill. I think it is more important that people lodge their claims and have access to funding as quickly as possible.

The minister also provided me with a letter. Honourable members would be aware that it is fairly difficult to speak to major players between a Thursday night and a Tuesday. I thank the minister for her recent letter to me — it was handed to me last Tuesday — indicating that she had invited the Housing Industry Association, the Masters Builders Association, Dexta Corporation Ltd, Royal and Sun Alliance, the Real Estate Institute of Victoria, the Law Institute of Victoria and the Housing Guarantee Fund to be briefed on the details of the legislation in advance of the second-reading speech being made in the Parliament. I thank her for that signed letter indicating that that level of consultation took place.

In conclusion, I seek an assurance from the minister that should there be errors in this bill — I am not talking about the deficiency errors; that is a matter of policy between the two parties — if a type of drafting error emerges because of the speedy nature of the bill's introduction and its being rushed through both houses, that she will move to rectify the error rather than do

what ministers often do — that is, seek to justify what is in writing and not go through the Parliament to rectify the error. I seek that assurance from the minister. On that note, this bill is sorely needed for consumers and builders. I wish it a very speedy passage. I am pleased to say that I have done everything within my capacity to ensure that will be so.

Mr STEGGALL (Swan Hill) — It is rather sad that the bill has had to come to the Parliament. I appreciate the work the government has done and the briefings granted to the National Party on the way through. It is a bit of a commentary on the present situation in the corporate world, with HIH and One.Tel going down very quickly and raising a lot of issues. This bill raises the issue of where governments have seen a need — I have to say that I have no objection to the government's seeing this need — to correct what has happened with regard to HIH and its impact on people in Victoria. We are very lucky that the exposure in Victoria has been minimal compared to New South Wales and other areas. The bill before the house is really not a difficult one for a government in the financial situation of this government to handle and move on. However, I appreciate that it takes a will and desire on the part of a government for it to do that.

The underlying cause of the HIH collapse is probably best described as price-cutting and corporate failure, and there would also be an element of regulatory failure. That is an issue for the federal government but one which I hope the Parliament will also take note of. From time to time parliaments and governments tend to rely on corporate watchdogs, or the watchdogs they create, to assist in the guidance of where organisations like this are going. Unfortunately here we have another example of where that watchdog was unable to give any warning.

The HIH collapse also raises issues of audits and auditors. When threatened with all sorts of things in the public lives we lead some of us rely a lot on auditors and auditors-general. I am sure honourable members will see quite a bit of interest in the federal field as to how the situation we are addressing today actually eventuated. The government is pretty lucky in respect of this inasmuch as the bill covers the areas in which the Victorian government is involved. Basically this bill is about the builders' warranty issue and covers it well. The issues raised by the shadow Treasurer are very relevant. I am sure the Minister for Finance will answer those questions when she sums up.

The state government has some exposure through the Department of Natural Resources and Environment and the Department of Human Services. It also has pre-1985 workers compensation liabilities worth about $17 million in round figures, and a $25 million to $35 million reduction in recoverable claims by Workcover against third parties insured by HIH. When she sums up I would like the Minister for Finance to give the house guarantees as to where that money is going to come from and whether the shortfall in Workcover operations will be covered by Workcover premiums or be funded by the government. It is only fair that we know whether the Workcover exposure here will be funded by the government or by the premiums charged in the Workcover area; likewise with the Transport Accident Commission and the exposure in its areas.

It is interesting to note that the federal government has by far the hardest area to address in the HIH problems. It has run into the issues of public liability, which are huge to people in the country. This bill will not assist with public liability, particularly in the country, where people are having difficulty getting public liability coverage for public halls and what have you in small communities. Insurance there is going up by a factor of about 10 in some cases; it has been terrible this year, although we have solved some of the problems. The federal government is covering public liability, general insurance, income protection and professional indemnity cases. When one looks at HIH and the efforts of governments to try to resolve the issues, the state government in Victoria is probably in the best position of all the states to come up with this package.

I was interested to hear the early comments of the government blaming the federal government for everything that happened and the world going wrong in the federal area. As the shadow Treasurer said, it took a while for this state government to get its mind on where its responsibilities lay and what it should do to meet them. Governments have stepped in to deal with corporate failures in the past. The biggest one in Victoria was the collapse of Pyramid, and now to a lesser extent we in the Victorian Parliament have the collapse of HIH. I do not have any problems with the government's taking the action it has; I welcome it because our building industry has been in a state of disarray since this happened.

Insurance throughout Australia seems to be in disarray at the moment, and the price-cutting policies of this company will probably lead to an increase in the cost of insurance right across the board, which will have an inflationary effect. However, having been involved in cases from country areas I am very aware of instances where prices are screwed down and dominant players squeezed to the extent that it is difficult to achieve a reasonable or properly expected service or quality of

product, as in most of our cases. Here the insurance industry has operated with a price-cutting company that was probably operating below the level at which it could reasonably be expected to operate, consequently leaving quite a debacle behind itself.

As the minister said, there are three issues of concern in the building areas: first, the difficulties faced by some builders in obtaining ongoing cover for new building work, which has been a problem; second, the problem of delays in property sales where settlements were unable to be achieved because of doubts over builders' warranty insurances and section 32 certificates; and third, the lack of adequate protection for home owners with incomplete or defective houses or renovations whose builders are unable or unwilling to complete or remedy the building works or defects.

The bill seeks to cover a series of issues, including the establishment of a state indemnity scheme to take over the HIH claims. The Housing Guarantee Fund Ltd (HGFL) will manage the scheme on the state's behalf. The fund will stand in the place of HIH in the insurance of the builders guarantee. The bill allows for the making of claims subject to the claimants' right of recovery against other parties being assigned to the state. There is not much mention of the fact that the scheme will be voluntary — home owners will not need to be part of it if they do not wish to travel on that path. They may take their chances in another forum if they wish to do so.

The bill provides for the implementation of an additional building permit levy to meet part of the costs of the scheme; that refers to the $32 for every $100 000 of building works going on to the building permit levy and the issues that revolve around that. It will enable the HGFL to recover costs from builders to the same extent that HIH could have done.

It will also enable the Building Practitioners Board not to impose a mandatory suspension. We have had some problems with that issue in some country areas. It seems that in the last few weeks the pressure has eased. I hope that insufficiency of time will not be an issue on 31 July, but if there were not sufficient time I would expect the government to take the necessary steps to overcome that situation.

The bill also sets out to protect home owners' rights to contest decisions made by HGFL in respect to claims and overcome concerns about the validity of HIH insurance cover in relation to property settlements.

I move briefly to the funding operation. The point was made by the shadow Minister for Finance with regard to the transparency of the levy coming into play where 50 per cent of the cost involved is going to be raised from general revenue. It will be done by a Treasurer's advance in this first year and a budget allocation in subsequent years. The other 50 per cent will come from the building industry in the form of the $32 surcharge on levies. The transparency of that issue is something that we will follow with great interest, particularly at budget time. I hope and believe the government, through the Auditor-General, will make sure that that 50 per cent is there and that the levy does not become a milking cow for the government to move funds from the levy to the share that the government has agreed to.

It is estimated that the levy will raise some $2 million a year. The government is undertaking that the new fund will be closely monitored. The National Party will be looking for that to happen. The bill provides that the levy will cease to operate on 30 June 2001. However, provision is made for it to be discontinued at an earlier date, and we hope that will occur. The issues that have been raised here need to be covered and answered.

I reiterate the issue raised by the shadow Treasurer about stamp duty. It seems that double dipping could occur in areas where stamp duty has previously been paid and where new insurance has been taken out. I hope the government will look at that issue. It does not need to be seen as greedy in the way it will carry out this operation.

I am hopeful that we are going to see the seamless transition that is sought by the legislation so that HGFL will be able to stand in the place of HIH and that it will kick into place next week. I also hope that the government, through the assistance of the National and Liberal parties, will be able to get this legislation through and put in place the things that are promised.

I trust that the legislation will alleviate the concerns that are paramount in many areas for the builders. I note that the government has exposure through its public liability with the Department of Natural Resources and Environment and the Department of Human Services. I ask the minister to clarify where the Transport Accident Commission and Workcover moneys are going to come from. I hope and trust they are not going to come from premiums but from general revenue.

With those words, I wish the bill a speedy passage and trust that by the end of this week or early next week it will have passed successfully through the house.

Mr LENDERS (Dandenong North) — I support the House Contracts Guarantee (HIH) Bill. Regulation of the insurance industry has been the responsibility of the

federal government for many years under the Insurance Act 1973. Victoria is now in the sad situation of having to pass, with bipartisan support, urgent legislation on the issue.

As the Minister for Finance has already explained, HIH — which might stand for Howard in hiding — is an issue that the federal government has been trying to buck-pass onto the states to avoid responsibility for it. It is refreshing that things are now happening, and happening fast. A lot of people are out their hurting. The government responsible for regulating the industry should take some responsibility for fixing it. Nevertheless, a joint effort is now going on, and the Victorian government is moving fast to assist.

In Victoria two major areas are creating pressure for the Victorian government. The first is the problems in the building industry, particularly building warranty insurance, affecting home owners and arising from the HIH collapse. The second area is the hardship claims arising from business and the community due to the now worthless HIH policies for public liability, general insurance, income protection, professional indemnity and so on — that is, those insurance areas that are not governed by Victorian law but are the focus of the federal initiative. People from communities in my electorate of Dandenong North, including Mulgrave and north Noble Park — all over the place — are concerned about the issue and are looking for leadership.

Victorian legislation requires builders warranty insurance to be in place before a new dwelling is commenced. Private insurers currently write these policies. This arrangement replaced the Housing Guarantee Fund after 1995. Builders warranty insurance protects home owners against the cost of repairing defects for up to seven years after occupancy and ensures that contracts will be honoured, even if the builder goes out of business in the course of building a home. The major industry groups — the Housing Industry Association (HIA) and the Master Builders Association (MBA) — are closely associated with the sale of builders warranty insurance and receive commissions from insurers.

There are three sets of issues to be considered with respect to builders warranty insurance. First there is the ongoing cover issue, which involves arranging replacement insurance for builders and dwellings not yet completed or commenced. The Building Control Commission (BCC) will continue to coordinate HIH insurance replacement and builders registration programs, which means part-completed or new homes will be able to get insurance cover. The role of the Victorian government is limited to trying to speed up the processing of applications by private sector insurers, and in that area the minister has been on the case with vigour.

The second set of issues concerns run-off liabilities. These involve providing support for owners whose builders have gone out of business or who identify a building defect in the first six and a half years of occupancy. Owners of completed houses with an HIH builders warranty policy are exposed because they no longer have effective cover. These owners fall into a further two categories: those who have made claims against an HIH policy for defects in their houses but who have not yet had them repaired, such as the Avonwood Homes group, as was mentioned by the honourable member for Brighton; and those who do not have current claims against HIH but who will lodge one if defects become evident within six and a half years of completion and first occupancy.

The third set of issues concerns the selling of a home. Home owners in Victoria are required to hold a valid builders warranty insurance policy certificate when selling a property within six and a half years of its completion — the so-called section 32 certificate that many of us who have purchased a home are familiar with.

The rescue package deals with the second and third sets of issues only. Legislation is proposed to allow the Housing Guarantee Fund to process builders warranty insurance claims that would otherwise have gone to HIH. People who can establish they have a valid but now defunct HIH policy will be entitled to have their house defects repaired under the supervision of HGFL. That can take one of several forms: HGFL can arrange for the original builder to correct the fault; if the original builder cannot or will not correct the fault for whatever reason, the HGFL can manage the job and pursue the builder for payment through legal process; or, where the builder has gone out of business, HGFL can arrange and pay for another builder to complete the works.

A person who seeks HGFL assistance will assign his or her rights to any payout from the HIH liquidator across to HGFL or to the Victorian government. These payouts, if any, will be less than the cost of the works carried out. The state can then join any legal actions against HIH, its directors, the Australian Prudential Regulation Authority (APRA) and so on, to claim compensation in addition to any distributions from the liquidator. Claimants will be entitled to the same benefits as though the original policy were in place. The existing cap of $100 000 will remain.

The act will be amended to allow the Building Practitioners Board to cancel a builder's licence if the builder refuses to contribute to the correction of a defect at the request of HGFL. Because claims can be made up to six and a half years after the home is completed, the package will have to run for up to eight years. The law will be changed to validate HIH policies for the purposes of selling a home. Of the cost, 50 per cent or a bit over $17.6 million will be budget funded — that is, funded from general state revenues — and the other 50 per cent will come from an increase in the levy, which has already been addressed.

The process being undertaken by the state government is transparent and speedy. The commonwealth is finally setting up a royal commission to look at the matter, including the roles of Mr Ray Williams and other members of the board. One of the questions that needs to be looked at — and one that I suspect explains why the Prime Minister has been as tardy as he has — concerns Mr Williams' donation over three years of $600 000 of HIH funds to the Liberal Party. It is an issue that needs to be looked at, and I hope the royal commission will get to the bottom of it. The public funding of elections is always an issue. It is good when jurisdictions have power over such things, because they can then be addressed and political parties need not be forever chasing the corporate dollar.

That the bill was conceived and brought to the Parliament in near-record time is a tribute to the commitment to certainty in the building industry of the government, the minister, the real estate industry and the community at large. During the development of the proposals the government had access to the views and advice of a large number of parties, all of which were grappling with similar problems. One of the biggest problems is how to assist builders who are having trouble getting replacement insurance for their former HIH cover. They are in a difficult position because they cannot commence new works. To the government's knowledge no other state government has come up with a solution to the problem, nor has the federal government.

The Victorian government could have decided to become a massive insurer and could have covered all the risks associated with building in the coming months. It is not the role of the state government. Taxpayers would be correctly critical of a government taking a risk with their money. The government has taken seriously all the proposals that have been made to overcome the problems. The preferred solution has been and continues to be to maintain pressure on and work in cooperation with the industry players and the insurers to speed things up. For example, the Minister for Finance has been in frequent contact with the key players and interrogated them on throughput rates. The Building Control Commission (BCC) has met weekly with the key players for a status report on and an assessment of how logjams can be freed. The government has arranged for funds to go to the Master Builders Association (MBA) to engage accounting expertise to help builders fill in the financial details required by the insurers to process applications.

By any standard those actions have been prompt. They are generous measures in an area where the government has no legal obligation to assist. A crisis such as the HIH collapse involves large numbers of transactions and many people in heightened states of distress. Members of Parliament will all know of builders or consumers living with the uncertainty created by HIH — and earlier I alluded to a number from the Mulgrave part of my electorate. Rather than whip up those anxieties, members of Parliament have a responsibility to channel their efforts into assisting builders.

For example, the combined effect of the GST and the HIH collapse has put pressure on many small businesses to maintain better financial records than ever before. To many this is an aggravation when their real business lies in earning income and doing jobs. However, those requirements will not go away. They are not new demands made by the state government but demands made by a combination of federal and private sector risk management operations. Members of Parliament, industry associations and others would therefore do builders and the community at large a favour by thinking of ways to assist businesses, especially small businesses and sole traders, to manage their paperwork better.

The HIH collapse also says something about statutory insurance schemes. These are set out in statutes by which our community has agreed that special sorts of product should operate. In some respects it is wrong to call them insurance products. The Workcover and Transport Accident Commission (TAC) schemes and builders' warranties have features additional to those found in traditional insurance, and the first two have much in common with social welfare schemes.

Victoria has weathered the HIH situation well, partly because of the limited role private insurers have played in Victorian statutory insurance schemes. That is to say not that private sector involvement is inappropriate but that the product set out in these schemes is generally not well understood or well managed by private sector insurers.

The recent national competition review of Victoria's Workcover and TAC schemes conducted by Minter Ellison and Pricewaterhousecoopers showed that so-called long-tail insurance schemes are not attractive to private insurers because of their inherent uncertainty. Many benefits payable under such schemes can extend out for decades, much longer than the time horizons of most standard insurance products. In this respect they have more in common with welfare schemes than insurance products. From discussions about the builders' warranty cover taken on by the state government after the collapse of HIH, it has become clear that a product horizon of even seven years is difficult for private insurers to price or to manage.

Victoria has faced up to its responsibility to provide workers and accident victims with an enduring benefits package that stretches into the future and accounts for the changing circumstances of claimants as their medical conditions fluctuate. In the area of builders warranty insurance, consumers have similar long-tail emerging needs. It would be unfair and unreasonable to offer a benefit scheme of interest to private operators that can be managed only along conventional short-tail business lines.

For this reason the government is extremely sceptical about the federal government's talk of a national insurance framework, which has come in the wake of the HIH collapse. The federal government should put its energy into analysing the reasons for the recent spectacular private sector failures before it tries to shoehorn Victoria's successful statutory schemes into a private sector model that is run on a national basis.

In conclusion, when the federal government settles its terms of reference for the HIH royal commission it would be useful if it allowed for some analysis of the risks in long-tail insurance business and the special prudential requirements that may be needed to monitor them. In Victoria we have done this well, so perhaps the federal inquiry could learn from our experience. I wish the bill a speedy passage through this house and the other place, and I commend the Minister for Finance on her efforts in this area.

Mr CLARK (Box Hill) — Previous speakers have covered most of the bill's provisions, so I do not intend to repeat what has been said. Instead I will focus on some aspects of the legislation that relate to the building industry. Action has been taken to help those consumers who have been unable to complete their homes or to rectify severe defects. Everybody acknowledges the dreadful situation those consumers are in and appreciates the steps that are being taken to help them.

However, the one thing the bill does not do is help those builders who cannot start new work because they have been unable to obtain replacement insurance cover for their previous HIH insurance. I will refer to some letters that have been sent to me by builders in recent days. One builder has asked that his appeal be raised in Parliament, so I will mention him by name. Others have not, so I will outline their concerns without naming them.

Mr Paul Mottram, of MBS Mottram Building Services of West Melton, wrote in a letter faxed to me on 31 May:

> I am appalled at the lack of concern for the 3000 builders struggling to get insurance to keep their businesses alive. I personally have been waiting since 16 March for insurance, but still have no idea when I will be getting it. I have had a letter saying that I now have to provide a bank guarantee of $35 000 to obtain my insurance. This has been done and still I cannot be given any indication of when I will receive insurance.
>
> I have been lucky to have works in progress for this period of time, but this [is] now finished and I am certain if it goes on much longer my business will not survive …
>
> The other two within two weeks, it is becoming impossible to carry out your work not knowing when I will get my insurance.
>
> It is beyond comprehension why this government has allowed a moratorium to all builders to proceed with new works while their insurances are being processed …
>
> It appears … two organisations say different things. For example the HIH say everything is okay as their builders are covered and that they can give cover notes to other builders within 48 hours. Rubbish. I have tried this and find that because I have been trading less than two years I have to do a full application, which I have done, still no reply. It is apparent that they are having problems processing applicants. The MBAV of which I am a member are also having problems processing applicants, as Dexta cannot handle the influx of builders trying to register.

A builder from Tyrendarra faxed me on 31 May saying:

> We are small builders who can't work because we cannot get building permits. We have done all the small no-permit work we had. We need to get permits to be able to work now. I have been told of some losing work to others because of insurance.

Another builder from Stawell wrote to me and stated in part:

> I am a small country builder struggling to keep my head above water due to the HIH collapse fiasco.
>
> I don't appreciate having all the appropriate insurances and registrations in place and then being placed in financial difficulties through no fault of my own.

> I cannot start any work because my insurance proposal has not been processed yet …
>
> Do all the builders in a similar position to me a favour, and tell the government to wake up to themselves, pull their finger out and help the industry which is crippled.

Finally, I received a letter from a couple seeking to build a home, who wrote:

> My wife and I want to build a house —

and they give the address at Inverloch.

> We have last week demolished our weatherboard house there. We have a contract to build our new residence at a cost of $330 000 with the local builders —

and they then name and cite that builder's HIH membership number. They continue:

> This builder is regarded as the best in the area. He has been building for 27 years. He cannot get insurance cover so is not allowed to build anything above $126 000 value. Our would-be builder has been put out of business because of this ruling.

They are some real life examples of builders and clients of builders who are struggling as a result of nothing being done to help builders get the insurance they need to obtain permits for new work. This is something that the government could have tackled. The opposition called for such action as far back as 21 April, when it called on the government to help the building industry obtain temporary global insurance cover for all builders working in Victoria who previously had coverage with the HIH group so that they could keep working while the paperwork for their new individual insurance cover was processed. We made the point that that did not need to be a burden on taxpayers. We said the cost could be recovered through a levy on those building projects that had the benefit of the cover, or in some other way through a fee collected through the building industry association. From the evidence available to me, it appears that approach was viable then and remains viable now.

I know that the argument has been put that HIH Insurance ended up taking on a number of risks that other insurers would not take on and that in providing temporary cover it therefore created some exposure. That may be correct in part, but it should be remembered that in taking on a bundle of risks you are taking on the entire spectrum. You are not focused on difficult risks but on providing global cover for the lot — for the good and the not so good. It has to be remembered that thousands of reputable builders have been in business for many years, and to impugn all of them on the basis that a handful might be struggling to obtain insurance from other companies is unfair, just as it is unfair to do nothing to help those builders on the basis that there may be a small tail of greater risks.

As I say, this is something that need only have been applied in the short term to overcome what in large measure is a paperwork bottleneck. Various building associations and insurers have made varying reports on how great the bottleneck is, but it is clear that the remaining insurers are struggling to cope with the flood of paperwork they are facing. Even when companies have initially processed the paperwork, it has been sent back to the applicants with further requirements. The applicants have to meet the requirements, get the applications back into the system and then wait again for the insurance.

Nothing in the bill or in anything else the government has done tackles the problem. Nor has anything been done to recognise that it is a completely different thing to say as a general proposition that standards in the industry must rise and that the standards being applied by the remaining insurance companies are no different now to what they were before the HIH collapse, all of which may be true.

It is one thing to talk about the industry gradually moving to higher standards, with individual builders being told when their policies come up for renewal that they need to satisfy higher requirements and that they have a month or six weeks advance notice to meet those requirements — and we can have a debate about that, which may well be a reasonable proposition. However, it is another thing to have hundreds of builders across the state, on virtually no notice, having to suddenly meet a raft of new and higher credential requirements — and further, having to satisfy those higher requirements at a time when they cannot work and their ability to satisfy those higher requirements is therefore being undermined. Those builders do not have cash flows; they do not have work; they may have had to lay off their work forces or send them on leave; and their businesses have been disrupted because they are losing jobs to other builders. To pile on top of that the requirement to meet higher credential standards may be, in those circumstances, asking the near impossible.

For a number of these builders with no cash flow and no work the situation becomes worse every day. For the government to blithely say, 'Everything is okay. Sooner or later it will sort itself out, so we will not do anything about it', reflects a basic lack of understanding of the way small business operates and of the needs of the industry and other sectors of the economy.

The government does not appreciate the seriousness of the problem. Initially, the Premier and the Minister for

Finance suggested that the builders could get the cover they needed within 72 hours and that they should not have their work held up for an extended period because of insurance problems. Then the Minister for Finance said that the situation should be resolved by the end of May. Now the bill makes provision for the possibility that builders might not be able to sort out their insurance situations until the end of July. This is not just a matter of days or weeks — or a case of a few days or weeks not being important. The government does not appreciate that for many small builders it can be the difference between survival and going out of business.

In its public statements the government has glossed over the problem and created the impression that things are being done to help builders. In fact, although the provision deferring the suspension of registration is fine as far as it goes, it does nothing to solve the problem that builders cannot work if they cannot get building permits because they cannot get insurance. That is the glaring deficiency in the scheme, and it is something the government should have acted on in the middle of April. It is something the government has consistently failed to act on.

I also flag the fact that in the course of a number of discussions after the HIH collapse, various builders made a number of suggestions for improving the regulation of the building industry, such as changing the role of the Building Control Commissioner. It is greatly appreciated that builders are coming forward with constructive suggestions on how industry regulation can be improved. I assume the minister is in contact with builders and getting similar feedback. I certainly will look into some of the suggestions that they have made, because when an issue such as this arises all aspects of the situation must be looked at. If there are opportunities to improve the regulation of the building industry, they should be taken.

Mr MAXFIELD (Narracan) — I support the House Contracts Guarantee (HIH) Bill before the house today. As a local member who is very active in my community I have become acutely aware of the difficulties the HIH collapse has caused my constituents. Builders in particular have been seriously affected, as have other members of the community. I even had returned to me a dishonoured a cheque for a burnt-out electric motor before a secondary cheque was subsequently sent. The effects of this collapse have been widespread. I listened with interest to the honourable member for Box Hill while he was speaking on the bill. When I consider that this is the man who participated actively in the slashing of workers' entitlements through changes to Workcover, I wonder whether the compassion of other opposition members is limited. They show compassion for some, but, sadly, they do not take into account the effects these problems have on workers.

This bill will help our community, our builders in particular, and provide the support the Bracks government is all about giving — that is, helping those in our community who require assistance. Assistance to builders will instil confidence in our community. I give credit to those insurance companies who have come to the fore and provided the extra cover that our builders need.

The government notes with interest the involvement of the federal government in this issue and sometimes thinks the acronym HIH refers to Howard In Hiding!

This bill provides tremendous security to builders in our community. Placing a levy on domestic building permits is part of the overall package within this bill which shares the financial burden of the collapse in a way that helps provide support for our building industry.

As an electrician, I am acutely aware of the impact this collapse has had on the building industry. As a tradesman I am proud to be in the house and to speak on the bill that will help builders, the industry and this state overcome a sad collapse.

Mr ROWE (Cranbourne) — As the honourable member for one of the fastest growing regions in Victoria, if not Australia, I feel a need to speak on this bill. Cranbourne has a vibrant building industry and the collapse of HIH has caused some concern in my electorate to those people who want to see their houses completed, and in particular to those who were trapped by the Avonwood Homes collapse. It is good to see that those people will now be protected. Obviously Avonwood must have gone for budget-class insurance because they went to HIH.

It is interesting to note the contributions of other honourable members on the activities of insurance companies and the manner in which such companies underwrite risk. Speaking as someone who has been involved in the insurance industry, for the last 10 or 15 years there has been a trend within the industry to force prices down to gain market share. This has caused them to underwrite business at unsustainable levels, relying only on business percentage growth to maintain cash flow. Their premium income has not been enough to cover potential claims, and this has been the case with HIH.

It was interesting to see Mr Rodney Adler, the previous owner of FAI Insurance and a director of HIH, criticising the prudential surveillance of the regulating body. It is strange for this man to be criticising the watchdog, but, then again, the corporate watchdog needs to look at Mr Adler. I saw with interest this week that he is also a director of One.Tel, which has gone down for millions of dollars as well. One would have to question his ability to run and direct a business.

As I have said, the bill provides for insurance for completion of houses under construction. This will allow cash to continue to flow to builders who have suffered because they were unable to get progress payments. In addition, it will mean the completion of those homes where people have had builders default under the contract. As previous speakers have said, it does not allow for those builders, who numbered 1300 last week, who have not been able to obtain insurance to commence new contracts. I ask the minister to consider seriously those suggestions that the scheme be extended to new contracts because in my area a number of builders and tradesmen are unable to commence contracts because they cannot get insurance.

One initiative I called for early after the collapse was for the government to do what the NSW government did — that is, forgo stamp duty. As the Premier noted, it is only a million dollars. That amount may not be much to the Premier but it is a significant amount to some in the building industry. There is also the double-dip scenario — getting not only a second lot of stamp duty but also a second lot of GST on the insurance because the GST gets passed on to the states. This state government saw fit to apply stamp duty to the GST. This duty is a tax on a tax and has not been adopted by any other state.

For the benefit of those people waiting for their houses to be completed and those builders who have been out of work and unable to complete contracts I wish this bill a speedy passage. Again, I request the minister to look at those 1300 builders who cannot get insurance. These are people who have families, mortgages and lease payments for equipment. The situation has a multiplying effect on areas like Cranbourne and its surroundings where many members of the community are employed in the building industry. I wish the bill a speedy passage.

Ms KOSKY (Minister for Finance) — In summing up the debate, firstly I would like to address some of the matters that have been raised, and then I will make some concluding remarks. The honourable member for Brighton raised a number of matters, the first of which related to the transparency of the financial arrangements for the funding that has been provided for this package.

The replacement for HIH arrangements within the Housing Guarantee Fund Ltd (HGFL) will be separated from the normal arrangements within the fund. They will be reported on separately to the Parliament, and audited separately by the Auditor-General. We are very clear that we want a clear and transparent report to the Parliament on that aspect of the fund. We will be monitoring the levy that is in place over the next seven years to ensure that if we can sunset it earlier, we will move to do that prior to 2010.

The second matter the honourable member for Brighton raised related to the flow of reinsurance. Within the last week I have met with both Royal and Sun Alliance Insurance and the Dexta insurance corporation. I have been assured by them that they see no problems in ensuring the flow-through of the claims that are eligible for insurance by 31 July. They have also indicated to me that they will keep me in touch on a weekly basis to ensure that we can monitor that flow.

The companies have put on and trained additional staff, and the government has provided further accounting assistance to the Master Builders Association to ensure that the applications are getting the due attention they deserve and require to enable the insurance to flow. I am assured by people from Royal and Sun Alliance that they are providing 48-hour cover notes so long as the financial information is provided by the individuals seeking cover notes on individual building projects.

The third matter raised by the honourable member for Brighton related to the Law Institute of Victoria. We have not received that request from the law institute, but I am informed that it is highly technical. It would be difficult for me to comment now in relation to that matter, but I undertake to the house that we will be responding to the law institute on the matters it has raised.

Finally, the honourable member for Brighton raised a matter relating to the Housing Guarantee Fund Ltd giving builders the opportunity to rectify faults identified in properties they had constructed before proceeding with legal or other action to have the builder pay for another builder to complete the works. I assure her we will do that, and that the current legislation allows for that to happen. The insurance industry's current practice is first to ask the original builder to undertake the works. If that is not possible because the builder cannot be located or is reluctant to cooperate, the insurer may fund the works and seek a contribution from the original builder, sometimes through legal

action. The Minister for Consumer Affairs will issue guidelines for the management of HGFL claims that make it plain that the first approach on claims is to seek the cooperation of the original builder to make good any faults.

The honourable member for Swan Hill raised a matter relating to the Workcover and TAC liabilities, asking whether the premiums would be increased for individuals within those schemes. The TAC has no HIH financial exposure. The Victorian Workcover Authority has two areas of exposure — the pre-1985 liabilities, which we estimate to be around $17 million, and the section 138 recovery rights, which we estimate at between $25 million and $35 million.

However, the Workcover authority will simply absorb these liabilities over the next 10 years so it will not affect premiums, and given the billion-dollar-plus revenue base of the authority, this amount is only a very small liability that it has to add to its current liabilities.

They were the matters on which I was asked to respond directly and provide additional information. I thank honourable members on both sides of the house for their contributions and cooperation. I particularly thank the honourable members for Brighton and Swan Hill. They have provided their time for briefings, and have been prepared to expedite passage of this bill so that the people who have been affected — builders and consumers affected by the HIH collapse — can get access to the financial support provided in the bill as soon as possible.

The bill has been conceived, developed and introduced in near record time. I acknowledge that these are not ideal conditions under which to formulate and execute public policy, but the HIH situation is unique in the experience of most of us, and I hope we will not have to do this very often in this house.

There has been extensive consultation in compressed time frames also with insurers, the provisional liquidator, building associations, and the Housing Guarantee Fund, and similarly that could have been possible only with their cooperation and professionalism.

I also thank the officers of a range of departments who have put in many hours over the weekends and in the evenings to ensure that this bill could be debated and agreed to in the house in very short time. I particularly acknowledge the work of Adrian Nye from the Department of Treasury and Finance, and Tony Arnel, from the Building Control Commission. They have worked with all parties to ensure that we not only have a bill that can be debated in the house, but also that it has very strong support from the opposition and the government, as well as the different groups who have been supportive of the bill and having it debated and agreed to in a short space of time.

The bill that honourable members have debated and will be voting on will benefit consumers over a seven-year time frame. They are keen for the bill to pass through both this house and the other house. I thank honourable members for their response to the collapse of HIH and the potential crisis that could have occurred in the community had the government not been prepared to work through the matter and expedite it as quickly as possible. Thank you to all concerned.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

DUTIES (AMENDMENT) BILL

Second reading

Debate resumed from 17 May; motion of Mr BRUMBY (Treasurer).

Ms ASHER (Brighton) — The opposition does not oppose the Duties (Amendment) Bill. In the interest of honourable members having an opportunity to debate the budget, I will confine my comments to a couple of brief observations.

The bill proposes a minor series of amendments, with one exception. Given that the government took up the previous government's ambitious task to rewrite the Stamps Act into the Duties Act — and the original bill was a 222-page rewrite — it is no surprise that we are back looking at amendments that have occurred because of omissions, errors, additional discussion and new ideas. That point was made during the second-reading debate on the Duties Bill, and it will probably not surprise anyone that we are now looking at these sorts of amendments.

The Duties Act is scheduled to come into effect on 1 July, and when the bill was debated the government indicated it would have a further period of consultation. I clearly recall making some comments about the Law Institute of Victoria being asked to provide comments on a 222-page bill that was a major rewrite of legislation with only about a week's notice. At the time the institute — and these are the people who are dealing

with the legislation on behalf of their clients — indicated its displeasure at the short amount of time afforded to it to comment on a large piece of detailed and complex tax legislation.

I will touch briefly on a couple of the issues. I understand that a similar bill in New South Wales has had over 100 amendments, and I suspect honourable members will again be back in the chamber looking at the Duties Act, in part because of the huge task involved in rewriting an entire bill and trying to get some consistency between the states, which is laudable, but also to try to preserve uniquely Victorian aspects of the stamp duties legislation and its application.

The most significant element of the bill is that legislative clarity has been given to the issue of aggregation of land titles for primary production. The government had lost sight of this particularly unique aspect of Victorian legislation and had overlooked including the capacity for primary producers to disaggregate their land titles. That got lost in the first cut. Not surprisingly, after having it drawn to its attention, the government has moved to restore the provision under the old Stamps Act. The rectification is to restore the current provisions in the Stamps Act in the new Duties (Amendment) Bill.

The purchaser of any land is required to clearly indicate that the land will be used for primary production and will continue to be used for such. On that basis the land will be able to be on separate titles for stamp duty purposes. I note that the Victorian Farmers Federation is satisfied with the bill; indeed, it has indicated it is pleased that the government has agreed to amend section 24 of the Duties Act to exempt primary production land from the requirement to amalgamate dutiable transactions. That is a rectification of worth.

The other interesting element of the bill is the amendment to exempt industrial organisations from duty if the transfer is made to another industrial organisation as a consequence of the amalgamation of two or more industrial organisations. Obviously it is unions and employer organisations that are caught up under the definition of 'industrial organisations', and I am aware of one amalgamation of employer organisations. It is something that will be of direct benefit to the Labor Party's union constituency. I note that the New South Wales government has also moved on this. Nevertheless a range of organisations registered under the commonwealth Workplace Relations Act 1996 would benefit from this type of duty exemption, including a series of employer organisations. Under the Stamps Act there are concessions for businesses who reorganise themselves. While it would not occur in a great range of circumstances, clearly this has been introduced, following on from the action of the New South Wales government, to advantage unions that wish to amalgamate. That may show honourable members the Australian Labor Party's view on future union amalgamations.

A whole range of clauses replicate omissions — for example, provisions relating to the unencumbered value of marketable securities replicate provisions in the existing Stamps Act, which were an omission in the original Duties Act. Some clauses ensure consistency with other jurisdictions, while others simply reinstate existing provisions in the Stamps Act. The clauses relating to mortgage stamp duty to ensure consistency across all jurisdictions prevent double duty being paid, which was the original rationale for the rewrite of the Duties Act, or the Stamps Act as it was then called.

There are changes to the procedures for paying stamp duty on court fees. There are changes to a whole range of areas, most of which are fairly minor in terms of wording but all of which show a lack of rigour in the drafting of the original bill. If one is doing a substantial rewrite one would expect some errors and oversights to occur, and I am sure honourable members will debate the Duties Act again on another occasion as people point out various things to the government.

I seek an assurance from the minister in relation to proposed section 264C relating to the gazettal or service of notices. The government wishes to amend the Duties Act to have a written notice under this part given effect to either by publishing it in the *Government Gazette* or — and the word 'or' is used in the bill — serving it on the person to whom it relates.

Although I fully understand the rationale for not having a whole series of individual notices of gazettal, I think it is important in terms of serving notices not to move away from the original concept of gazettal. The opposition has been advised that the aim is to register people quickly by serving notices on them, and the rationale for the change is to not have individual gazettals on every single issue. The opposition has also been advised that it is the intention of the government to publish notices in blocks in the *Government Gazette*, although that is not a requirement of the legislation. I seek an assurance from the government that it will not walk away from the issue of gazettals relating to the servicing of notices.

I wish to comment on one final matter. The bill also changes the City of Melbourne's equalisation factor of land tax to 1.06, because an error has been made. The

equalisation factors for land tax probably do not excite a great degree of attention in the community other than among the people who pay the tax. I note the government tabled in Parliament a document signed off by the Treasurer setting out the equalisation factors. They were put together by the Valuer-General, but they vastly inflate land tax revenue to the government. The opposition is receiving a range of complaints relating to the equalisation factors. In this instance the City of Melbourne's equalisation factor was wrong, and via legislation the government has amended the regulation, which is the only way to change a wrong equalisation factor. That will end up in businesses either being paid refunds if they have paid land tax on an annual basis or having their payments reduced if they have chosen to pay by instalments.

Land tax equalisation factors are contentious. Ideally I would have taken the opportunity to speak about them to a greater extent, but I am conscious that a number of my colleagues wish to participate in the debate on the budget this week. This is a small bill, and the opposition does not oppose it.

Mr RYAN (Leader of the National Party) — I am pleased to join the debate on the Duties (Amendment) Bill. The bill contains the almost inevitable amendments to the legislation which was passed last year and which is to take effect on 1 July. Before it has even hit the deck we have these amendments — an inevitable process with legislation of the complexity contemplated by the rewrite of the act. I will refer to a couple of matters specifically. Like the Deputy Leader of the Opposition, I am conscious of the need to move debates along so others who wish to contribute to the debate on the budget have ample time to do so.

The bill contains a minor policy change relating to the approval of the Bendigo Stock Exchange commencing trading in securities. I mention in passing that for Bendigo the establishment of the exchange and its operating out of that fair city has been a remarkable development in this day and age, and is a credit to all the people involved in the process.

I note also the amendments relating to court fees. They struck a chord with me and reminded me of days gone by. I remember that when I was doing my articles in law one of the great trials in passing was whether you could make your way through the various machinations of the prothonotary's office. That invariably involved going there in your new suit soon after being appointed to your role as an articled clerk armed with various documents that had to be filed. That was when the true test applied: whether you had the right amount of duty stamps stuck on a document to pass muster and have it filed.

An honourable member interjected.

Mr RYAN — It was. You had to get it right. The worst conceivable outcome was when you were sent there at 5 minutes to 3 o'clock, which was the deadline for the day, to have a writ issued that required $55 in stamp duty. Often in the furious search through the stamp duty tin shortly before you left the office you found that there were only 55 individual $1 stamps. As a result of eventually getting the writ issued one became tongue tied for about the next month, because by the time you had stuck them on the document you were just about worthless in the sense of having a conversation thereafter.

Ms Campbell interjected.

Mr RYAN — I hear the interjection that perhaps the same process should be reintroduced for my speeches in this place, so I will move on. I note that the practice of licking stamps and sticking them on documents is to be abolished and that the payments will now be made by cash, cheque, EFTPOS or other electronic means. That is a marvellous advance. The bill also deals with relatively minor amendments to different aspects of the duties legislation.

I wish to spend some time during my brief contribution on a matter that relates specifically to stamp duty payable on transfers of property used for primary production, which escaped the attention of the Treasurer at the time of the passage of the original legislation but which was subsequently brought to his notice by a variety of means and is now being addressed. I compliment the Treasurer on that. I have before me a letter dated 10 May from the Treasurer to the Honourable Roger Hallam in another place in response to a letter Mr Hallam wrote to the Treasurer on 18 April.

In the course of his letter Mr Hallam highlighted for the Treasurer the inequity arising from transfers of parcels of land which were contiguous and used for primary production and which, under the provisions of the act initially passed by this place, were intended to be aggregated, so that the cost of that process would inevitably mean a significantly greater impost upon the transaction than would otherwise have occurred.

The issue was highlighted in an article written by Peter Hunt in the *Weekly Times* of 28 March. It deals with correspondence received by Mr Hunt from a St Arnaud solicitor named Hugh Radford. Mr Radford had brought the matter to the attention of his local branch of

the Victorian Farmers Federation, from where it went on to the *Weekly Times*. The way the issue has been raised in the article reflects the basic problem.

Without reading the article to the house, it comes down to the fact that if section 24 of the original legislation were to take effect it would have a significant impact upon the total cost of the transfer. The example given refers to a farm with a total contract price of $300 000. The stamp duty on the aggregated amount of the three titles that comprised the property would, under the legislation passed last year, amount to $13 660. Contrast that with the stamp duty payable on the individual titles, which amounts to $7060 less. One can see that were it not for the changes in the bill, an additional amount of $7060 would have been payable.

I congratulate the government on making those changes. It could be said that the value of the property to be transferred or subject to sale would have been diminished by the additional sum of $7060. I am delighted that the farming community will not be disadvantaged to the extent it otherwise would have been had this amendment not been proposed.

As I said at the start, I am conscious that other honourable members wish to speak on the budget debate. Having made those few salient points I wish the bill a speedy passage. It is supported by the National Party.

Debate adjourned on motion of Ms ALLAN (Bendigo East).

Debate adjourned until later this day.

STATE TAXATION ACTS (TAXATION REFORM IMPLEMENTATION) BILL

Second reading

Debate resumed from 17 May; motion of Mr BRUMBY (Treasurer).

Ms ASHER (Brighton) — I am conscious that honourable members wish to speak on the budget, so with that in mind I will be brief. The changes in the State Taxation Acts (Taxation Reform Implementation) Bill relate to the budget. They give effect to the government's announced tax package, the so-called Better Business Taxes package, which the government was forced — —

A government member interjected.

Ms ASHER — There is no such thing as a better tax. The bill gives effect to the package which the government was forced to announce in April prior to its budget and which it is promoting heavily with taxpayer-funded advertisements. If one looks at the bill one sees that it is reminiscent of an 'outstanding' piece of legislation introduced by former Prime Minister Keating. It shows that the Labor Party does not have the confidence to deliver its tax cuts in 2003 and 2004; instead it wants to impose some rigour on itself by putting its in-advance tax cuts into law. Doesn't that remind you of l-a-w law? That is what is in this bill, which contains a series of tax changes. Although some of the changes are immediate, the monetary value of the majority relates to the years 2003 and 2004.

The opposition has a number of criticisms of this tax component of the budget. I should have liked the opportunity of speaking about that issue. What the government should have done is deliver more business tax cuts now. What it has done is deliver more business tax cuts — but not yet! The government should have addressed Victoria's competitiveness.

For example, Queensland's payroll tax rate is lower than Victoria's, and New South Wales has abolished the bank accounts debits tax. What the government needs to do to ensure Victoria remains competitive — what it needs to do to keep businesses in Victoria — is to look at a decent tax package. While honourable members have heard the government's rhetoric about $774 million in tax cuts, that should be compared with $6.2 billion in increased expenditure. If the government wants to aggregate, it should aggregate the expenditure as well. That is the Bracks government's priority in the same time frame: $6.2 billion in additional expenditure compared with $774 million in tax cuts. It is no wonder that business is leaving this state. It is no wonder that business was calling for more tax cuts than the $100 million it got in this budget, with absolutely nothing scheduled for next year.

I want to touch on a couple of taxes, although I am very conscious of the fact that a number of honourable members on this side want to make their own contributions on tax and this budget. The bill introduces a $1200 levy on every gaming machine, in addition to the $333.33 levy previously applied by the government. Instead of calling this a gaming machine levy the government wants to call it the 'health benefit levy', and intends to hypothecate the funding raised from this levy for health. However, there are a number of key concerns about this levy, and I have had the opportunity to discuss them at length in the media and elsewhere.

Suffice it to say that what this government did, particularly in terms of Tabcorp, is very dangerous, because it raised the spectre of sovereign risk. This

move generated some most adverse brokers reports, in particular from Deutsche Bank, which clearly showed that Australia's investment reputation has been tarnished, because what the government is doing is tantamount to changing the licence conditions issued to Tabcorp. Tattersalls and Crown have a view, but there will be a real impact on the shareholders of Tabcorp — for example, ordinary investors who have set funds aside for their retirement will be impacted upon by this change to the taxation regime for Tabcorp.

The government has also abolished stamp duty on non-residential leases, backdated to 26 July 2001, with transitional provisions regarding refunds with a three-year limit. Clearly no refunds will be available if a lease is terminated and the lessee or an associate then occupies the relevant premises. That is a sensible protection of state revenue. However, that is the only stamp duty the government has abolished in this budget. In the Harvey report the government raised a grand expectation that it would abolish a lot of state stamp duties. Indeed, the Harvey report raised the expectation that the government could abolish $1 billion worth of stamp duties, to be funded by an unjust impost on land tax levied at a flat rate of 2.89 per cent. However, instead of providing for a $1 billion abolition of state stamp duties, the budget and the bill before the house provide for the abolition of stamp duties on non-residential leases. A very small monetary impost is being removed by the government, although obviously it is of benefit to individual businesses.

The government has said that it will abolish duty on unquoted marketable securities from 1 July 2003 and has put that in its l-a-w law bill, but we have all seen what has happened before with the Labor Party and its l-a-w law future legislated tax decreases. It has also said it will abolish mortgage stamp duty from 1 July 2004. It is interesting that of the three stamp duties the government said it would abolish, the one of greatest monetary value is the one furthest out in time from now — that is, the abolition of mortgage duty from 1 July 2004.

The government has instituted some minor changes to land tax. It is happy to collect increasing land tax revenues, but it is going to give back only $5 million per annum of land tax relief, which is very small in the overall scale of land tax. The changes to the land tax regime involve raising the threshold from $85 000 to $125 000, but they also raise the minimum tax payable from $85 to $125.

The changes to payroll tax are interesting to say the least. Payroll tax has been increased in some circumstances. The government will collect over $70 million extra in payroll tax as a direct consequence of the fact that it has expanded the payroll tax base to include eligible termination payments, fringe benefits and accrued leave. In return for the government's collecting an additional $72 million from expanding the payroll tax base, it will give a small payroll tax cut from 1 July 2001, from 5.75 per cent to 5.45 per cent. This is the party that does not think it can deliver, so it will impose a rigour on itself to legislate in advance, and it has legislated that from 1 July 2003 it will further reduce the payroll tax rate to 5.35 per cent. Honourable members have heard a lot from the Treasurer about the increase in the payroll tax threshold. He comes into the Parliament from time to time and says, 'This government will increase the payroll tax threshold from $515 000 to $550 000', and it will — but not yet! If one looks at the bill and reads the fine print, one finds that that change will be made from 1 July 2003.

I particularly seek an assurance from the Treasurer on an issue which he, I and many other honourable members hold dear, and which I know the Government Whip holds dear — that is, the impact of payroll tax changes on football clubs. Honourable members would be aware that Australian Football League (AFL) clubs, in particular, have a high reliance on fringe benefits, yet the bill and budget decision expand the payroll tax base to include fringe benefits. The government has clearly said that it is concerned about the impact of these payroll tax changes on AFL clubs in particular. With this in mind, according to the explanatory notes the bill moves in clause 14 to 'exempt' — that is the word used in the notes — prescribed sporting clubs from the requirement to gross up fringe benefits. I am seeking an assurance that the wording in the explanatory memorandum will result in tax relief to AFL clubs.

A sporting club will be defined as a club that pays more than 50 per cent of its total wages to those engaged in competitive sporting activities. As I said, the opposition has received verbal assurances that this will provide an exemption, but I am seeking in the Parliament an assurance from the Treasurer that the exact form of wording that picks up references to the Fringe Benefits Tax Assessment Act at the commonwealth level will result in this relief. I have consulted with my football club — the current premiers, Essendon — and I imagine that other members will consult their clubs. I know the Treasurer barracks for Collingwood.

Mr Ryan — We are a bit busy down at Melbourne.

Ms ASHER — I think Melbourne has additional concerns to payroll tax. I am sure other honourable members will want an assurance on that from the Treasurer.

There may well be other bodies that are significantly affected by this desire by the government to expand the payroll tax base. I also seek an assurance from the Treasurer that if other groups emerge whose tax treatment would be grossly inequitable, the government will move to look at some form of assistance to them. I would never argue that sporting clubs should have an advantage over other areas of community endeavour, and other special categories may be harshly impacted on by this expansion of the payroll tax base, but the fact that the opposition even had to raise these issues and the fact that it is in the legislation indicates that the government's so-called taxation reform involves raising additional payroll tax at the same time as it cuts the rate. The government will receive vastly increased revenue returns from payroll tax, notwithstanding this so-called reform.

I could go on for some time regarding the inadequacy of the tax package in this legislation. However, I have already pointed out the major deficiencies in my budget speech, and as I said, in the interests of allowing more honourable members to speak on the budget I will confine myself to these, by my standards, brief remarks. The opposition does not oppose the bill.

Mr RYAN (Leader of the National Party) — The National Party does not oppose the State Taxation Acts (Taxation Reform Implementation) Bill. I am conscious of having already given the budget a fair sort of towelling, so I will also keep my comments on the bill relatively brief.

The provisions enact several of the promises made by the government as part of its budget. Because the bill is broken into various parts, it is probably easier to deal with the mechanics of the proposals by having regard to those parts.

The first of them, in part 2, deals with the health benefit levy. Having already said in speaking on a previous bill that I was grateful to the Treasurer for his assistance in remedying a problem with the stamp duty payable on the transfer of properties used for primary production, I feel great sympathy for him so far as this aspect of the bill is concerned. I am sure these frames of mind — congratulatory and sympathetic — will pass. Nevertheless I have great sympathy for the Treasurer, because he was beaten up in various forums within his party around the whole idea of imposing it via electronic gaming machines (EGMs).

Honourable members will recall that in December, as a first bite, the government snipped a quick $10 million from the income from electronic gaming machines.

A government member interjected.

Mr RYAN — I am reminded from the other side of the house that it was an election promise. It does not matter two darns whether it was or was not an election promise. The government snipped out a quick $10 million to add to its coffers, which represents $333.33 per machine. Not to be outdone, and having got the first one through, the government thought that it would have another go, which led to its floating the notion in the Harvey review of taking $4000 per machine.

It was interesting to read again, as I did when I was cleaning out the top drawer of my desk the other night, the transcript of an interview that Mr Harvey gave on 3AW, in which he clearly indicated that by the time his independent review was undertaken, which was completely at arm's length of government, the notion of loading up the EGMs with another tax was well and truly under way in the government's mind.

The government started off with a figure of $4000. Eventually, after the Treasurer in particular had been beaten up, that was reduced to $1200 per machine. However, the composite figure turned out to be $1533.33 per machine — that is, the figure in the calculations in part 2 of the bill.

The first snip at $333.33 per machine returned $10 million; the second snip of $1200 per machine will return about $35 million. With that $45 million in the bag, one has to ask, rhetorically: how much next time? Will it be three times lucky, or three strikes and you're out? I suppose it is a case of saying, 'Let's all wait and see'. For the life of me I cannot believe that, having had a crack at it on two occasions now, the government will not be back.

The whole thing was a huge embarrassment to the Treasurer, and I reiterate my comment about having great sympathy for him. He understood that doing this raised the issue of sovereign risk and that the markets were concerned about it. While at first blush it has its attractions, for Tabcorp and Crown the notion of taking money from the gaming industry represented a complete breach of their licences. The issue of sovereign risk was there for all to see.

Nevertheless, the Treasurer did his best — and he was rolled. He cannot complain about that, because he regularly rolls the poor old agriculture minister on various issues that would benefit agriculture in this state. I suppose it is only fair, particularly in the political sphere, that when you wield the sword with gay abandon, as the Treasurer does every now and then,

someone will come back and put one into you. So it was that the Treasurer had to succumb and agree to the levy of $1200 per machine, which will be hypothecated to the health sector. The government will use it to top up what it otherwise should be putting in from other sources.

The other amendments deal with a variety of broadly canvassed issues, including lease duty, the duty on unquoted marketable securities, mortgage duty, land tax and payroll tax. Without going through them in detail, because the shadow Treasurer has already done so, the real feature of each is the smoke and mirrors that I spoke about during last week's budget response. Some of the initiatives, which total $774-odd million and are said to constitute the tax package, do not cut in until 2004. We will see a few this year, a little more next year, some more in 2003 and some more again finally in 2004. It is part of the never-never schemes in which this government has proven itself to be an absolute specialist. Government members are running the spin doctors' lines on the basis of savings of $774 million. Here we are faced with the fact that most of the initiatives are not going to cut in until two, three and four years from now. It will be interesting to see how the public accommodates that as time progresses.

The next aspect of the same issue is that by the time 2004 comes around and the balance of tax cuts have been implemented, the amount of money the government will be receiving across those sectors will have grown way beyond the $774 million. Indeed, on current trends the amount of money it will be earning in those composite areas will exceed the amount it is looking to cut — supposedly — by a very healthy margin. Is this the Labor Party equivalent of Fightback? Is this what you call Clawback? The reduction in the tax burden being claimed by the government will be made up at a rate that far exceeds the purported benefits.

For all of that, the National Party does not oppose the bill, even though the party believes it is a bit unusual for a government to encapsulate certain aspects of its proposals in the form of legislation. Perhaps the problem is that, like everyone else in the community, it does not even trust itself, so this is one way to get around that problem.

Debate adjourned on motion of Mr LENDERS (Dandenong North).

Debate adjourned until later this day.

RACIAL AND RELIGIOUS TOLERANCE BILL

Second reading

Debate resumed from 17 May; motion of Mr BRACKS (Premier).

Independent amendments circulated by Mr SAVAGE (Mildura) and Ms DAVIES (Gippsland West) pursuant to sessional orders.

Mrs SHARDEY (Caulfield) — I propose to table amendments, but apparently they have not yet arrived from the papers office. I ask that they be tabled in my name and circulated once they arrive.

The ACTING SPEAKER (Mr Kilgour) — Order! They will be circulated when they arrive. The honourable member is foreshadowing amendments and will move that they be circulated when they arrive in the house.

Mrs SHARDEY — I am pleased to speak on the Racial and Religious Tolerance Bill. Honourable members will, as we all know, need to think back quite a long way to remember the inception of the bill. The process started for real in December of last year when the government put out a discussion paper and a model bill. The government then engaged in a process of consultation to gauge community reaction to the model bill and the discussion paper.

The responses of the community showed that people did not support all elements of the model bill. Many would now say, on reflection, that the consultation process embarked upon by the government was not ideal, because it did not educate the public to understand what the government was trying to achieve. In fact, many of the consultation meetings had a negative effect on the model bill.

Some would say that may have had the unfortunate result of turning people against the concept of a racial and religious tolerance bill. From the beginning my party said that it supported it in principle but that the detail would be important. Therefore, it was important that the government's consultation process allowed people to examine the detail. Unfortunately I received reports that the government had not gone down that road and that the consultation meetings did not do so.

Mr Mildenhall interjected.

The ACTING SPEAKER (Mr Kilgour) — Order! The honourable member for Footscray will have his opportunity to speak on the bill at a later time.

Mrs SHARDEY — Members of the opposition undertook their own consultation process. We felt it was important to gauge for ourselves the community's thoughts on the principle of a racial and religious tolerance bill and about the detail that had been included in it. We wrote to 1300 multicultural groups and invited them to respond to a questionnaire. We visited the regional and rural areas of Mildura, Shepparton, Bendigo, Ballarat and Geelong. In our travels we met with an extensive number of groups in Victoria, including the Chinese business community, Italian community groups, the Returned and Services League, the Victorian Ethnic Community Council — I am pleased to see they are represented here today — the B'nai B'rith anti-defamation commission, the Islamic Council of Victoria, the Australia Israel and Jewish Affairs Council, Liberty Victoria, the Uniting Church, the Catholic Church and the Anglican Church, as well as many others.

I am sure honourable members will appreciate that as the shadow Minister for Multicultural Affairs I make my way around many multicultural communities many times a week. In my discussions with people I was able to gauge their views and their understanding of the legislation. People had a number of concerns. They were worried about the definition of 'vilifying behaviour' because they felt it was too broad and encompassed many areas that may put at risk their freedom of speech. Secondly, they were concerned about a perception that criminal sanctions applied to all forms of vilifying behaviour and that there was no separation of serious behaviour that attracted criminal sanctions and not-so-serious behaviour.

I now ask that the amendments in my name be circulated.

Opposition amendments circulated by Mrs SHARDEY (Caulfield) pursuant to sessional orders.

Mrs SHARDEY — Many people felt that if criminal sanctions were to be applied, the principle of intent should be taken into account. There was concern that the legal jurisdiction was not clear — in other words, that the process for hearing complaints, whether they be civil or criminal, was not clear. The greatest concern was expressed by church groups, particularly Christian church groups, who felt that their ability to evangelise would be put at risk.

The process undertaken by the opposition resulted in the government being forced to listen to the community.

Ms Campbell interjected.

Mrs SHARDEY — You will have your chance!

The government finally realised that the bill would have to be radically changed. While some on the government side were looking for the opposition to lead the way, we felt it was important to allow the community to speak — and the community did speak. The bill has been changed, and the opposition is now happy to support it. The Liberal Party is also proposing a number of amendments, which I hope will be acceptable to the government. I believe at least one of our amendments has also been proposed by the honourable member for Gippsland West.

What are the changes that now allow the Liberal Party to support the bill? They are changes that I hope will lead to community support for the legislation and to an understanding of the importance of the principle that individuals have a right not to be vilified.

Firstly, the government has separated vilifying conduct into two distinct areas, which makes good sense. Clauses 7 and 8 provide for unlawful conduct, or conduct that makes racial and religious vilification unlawful but not criminal. Clauses 24 and 25, which make it a criminal offence to commit serious racial vilification, attract criminal sanctions. Unlawful conduct will be dealt with through the civil process, and serious racial vilification will be dealt with through the court system and attract criminal sanctions.

The definition of 'vilifying behaviour' in this bill is different from the definition in the model bill. The bill relates only to conduct which for the purposes of civil remedy:

> … incites hatred against, serious contempt for, or revulsion or severe ridicule of —

a person or class of persons. In other words, we are no longer talking about loose comment but positive and active conduct involving incitement, which is defined as 'to put in motion, to stir up, to animate, or to urge, to stimulate or to provoke, a very proactive action'.

The clauses relating to portraying a person as not deserving the right to participate fully in society, or to offend, insult or humiliate a person on the ground of race or religion, have been removed, as has the reasonable observer test. Much of that behaviour in terms of offending, insulting and humiliating is covered under federal legislation. If it meant that the Victorian community would be happier with the legislation, it was thought reasonable to bring it back to something serious in nature but narrow in definition — and obviously something that we all should oppose.

The provisions on criminal sanctions have changed a lot from those in the model bill. They have become more severe and onerous, in that the test required is to intentionally engage in conduct that the offender knows is likely to incite hatred, and to threaten or incite others to threaten physical harm to that other person.

So here we have the introduction of intent, knowledge and threatening behaviour.

The second part of clause 24 relates to the other provision, and provides that the offender must not:

> … intentionally engage in conduct that the offender knows is likely to incite serious contempt for, or revulsion or severe ridicule of, that other person or class of persons.

The two provisions under clause 24 apply to race and the two provisions under clause 25 apply to religion.

Now we have intent, which attracts criminal sanctions, and this has meant that this is a much more acceptable aspect of the bill. It should be noted that while exceptions are granted under clauses 7 and 8 — which attract civil remedies — there are no exceptions to clauses 24 and 25, which attract criminal sanctions, because there is intent and there is knowledge and if a person intentionally does something they cannot be exempt from it.

The next area where helpful changes have been made is legal jurisdiction. I mentioned this briefly before. Racial and religious vilification is now split into two separate legal jurisdictions as well as two separate areas of conduct. The civil jurisdiction, which covers behaviour described in clauses 7 and 8, is dealt with by the Equal Opportunity Commission, and it concerns unlawful conduct that is less serious conduct where motive is irrelevant. Criminal jurisdiction is covered by the police and courts and involves serious vilification offences where there has to be intent and there are no exceptions. These cases are covered by clauses 24 and 25.

It is also now clear that every complaint must be made to the Equal Opportunity Commission and each complaint must be processed as in part 7 of the Equal Opportunity Act. Additionally we are told a protocol is to be established to enable the Equal Opportunity Commission to refer serious vilification offences to the police and that a special unit will be set up within the police force for the purposes of investigation. That raised some eyebrows because the notion of a special police unit to investigate racial vilification made some people quite fearful. It is reasonable to understand that we are now not relying on the local constable to make decisions on investigation of racial vilification. Therefore the establishment of a unit that will specialise in the area and understand its detail is probably reasonably important.

I would like to mention briefly other elements that address some major concerns. Firstly I refer to the preamble to the bill. People were looking for direction in understanding where the bill was leading and what it was trying to achieve. Some have been critical of the preamble, saying it was far too long and esoteric. It states that the purpose of the bill is to promote racial and religious tolerance and to protect freedom of speech. This is the balance that the community and many members of the Liberal Party were looking for: they wanted to ensure a balance between freedom of speech and racial and religious tolerance.

There is also an objects clause, which emphasises that the bill aims to resolve serious disputes and tensions through conciliation and that criminal sanctions are a last resort. The implementation of the bill should emphasise conciliation, and criminal sanctions should be a last resort. The community needs to be educated that criminal sanctions are a last resort ensuring that we are seeking peaceful outcomes. I believe community members are more ready to accept that if a person mistakenly says something that can be regarded as vilifying, that person should be given the opportunity to apologise.

One area I am concerned about which has not been spoken of enough is the process of education for the community, particularly through the school system. Some time ago I raised the issue of education about racism in our schools. The point I made at the time was that often children form their views on race at an early age. If we want to minimise racism and instances of racial vilification we should focus on the education of children and should introduce programs at an early age so they gain an understanding of community values. Parents have a strong role to play in helping form their children's values so they have healthy views towards people of other religions and races and a firm understanding of the community and its diversity. The area of consultation with the community needed more focus, and the government was remiss in not explaining this part as clearly as it should have.

One of the areas I mentioned earlier where there was great community concern was the effect the bill might have on religious groups, particularly those that are more evangelical in their teaching than others. The exception that has now been offered — genuine religious purpose — will go some way to alleviate the concerns of religious organisations.

The opposition also notes that unincorporated associations are to be excluded from criminal liability, and that makes perfect sense. However, another area that will be a big challenge in the future is the vilification that occurs on the Internet. There is some attempt, by the government at least, to acknowledge that this is a problem and that conduct occurring within or outside Victoria will constitute vilification, and it is aimed at Internet hate mail in particular. That is an area in which there has been enormous concern and which continues to be of concern because people have set up Internet sites that focus hate towards particular races and religions, which all of us find obnoxious. None of us would like to believe that we are going to be the recipients of such hate and not ever be able to take some action.

It is important for us to understand that racial and religious vilification legislation is not new to this country. We are all aware of this: racial vilification legislation exists in most parts of Australia and at a commonwealth level. Although the fact that it exists elsewhere is not necessarily a reason for us to have such legislation in Victoria, honourable members are cognisant of the fact that by having legislation in Victoria an area of need is now covered.

At a commonwealth level racial vilification legislation does not contain criminal sanctions as in many other parts of the country. Today I did a small analysis of the sort of legislation that exists around Australia. Racial vilification legislation is in place in the commonwealth, South Australia, Western Australia, New South Wales, Queensland, Tasmania and the Australian Capital Territory. Criminal sanctions apply in New South Wales, the ACT, Western Australia and South Australia. In New South Wales, the ACT and Western Australia, intent is an essential element. Consent of an attorney-general or a director of public prosecutions is required in South Australia, New South Wales and the ACT. Exceptions to unlawful conduct apply at a commonwealth level and in New South Wales, the ACT and South Australia.

The Victorian provisions on prohibited conduct are similar to legislation in New South Wales, the ACT and South Australia, particularly where criminal sanctions apply. Commonwealth provisions, which are only civil, relate to any act that is likely to offend, insult, humiliate or intimidate. The publication, possession or display of vilifying material applies in Tasmania and Western Australia. Some have felt that is an area in which this legislation is somewhat lacking. Similar religious vilification legislation exists in only one other state — Tasmania.

The Liberal Party is proposing amendments that will go to the heart of some concerns. I will talk about them in general because they will be talked about in particular later on. The first of two important amendments the Liberal Party is proposing relates to the involvement of the Director of Public Prosecutions. The Liberal Party believes that a prosecution should not proceed unless the Director of Public Prosecutions gives his consent. I believe the honourable member for Gippsland West has introduced a similar amendment.

A second important amendment to be proposed by the Liberal Party relates to vicarious liability. Clause 18 of the bill provides that an employer is not liable for a contravention of a provision by an employee if on the balance of probabilities the employer has taken reasonable precautions to prevent the employee contravening that part. In other words, this part of the legislation requires employers, if they wish not to be responsible or liable, to have introduced or put in place programs that educate their employees on the provisions of this bill.

The opposition believes that small business may find this section of the bill a little onerous. It has therefore introduced an amendment which means that, in the first instance, an employee would not be liable — there would have had to be a previous complaint lodged under section 7 or section 8 for them to be liable. This would mean they would have some knowledge that a complaint had been made, that there was a problem in their workplace and that they should put in place programs and policies so that employees would know and understand what is expected of them in the course of their daily work.

In making some general comments on the bill, I refer to the Liberal Party's record on multicultural affairs, including its support for multiculturalism. As I make my way around Victoria as the shadow Minister for Multicultural Affairs, I realise the extent of the previous government's proud record in its relationships with multicultural communities. The previous government went out strongly in support of our multicultural communities, developing warm relationships with a large number of groups in our society. That is something we should all recognise.

When faced with the threat posed by One Nation, the previous Premier spoke strongly against its divisive policies. At one stage he said he would chase the One Nation leader down every burrow to make sure that he rid Victoria of her views and the divisiveness she was trying to introduce into our community. We should all be proud of what he did on that issue, because he set a standard of support for multiculturalism in Victoria that

I believe is unparalleled. In all it has done since it has been in opposition, my party has sought to build on that wonderful relationship.

I have been delighted with the many times people have talked to me about the importance of feeling that the Liberal Party knows, recognises and understands the valuable contribution our multicultural communities make to our society. Members of the Liberal Party believe that not for any cynical reason but because we realise that our multicultural communities are an enormous asset, that they are important to who we are as Victorians, that our diversity sets us apart from others, and that the tolerance we offer our communities is something we should be enormously proud of.

Some people have asked, 'If we are such a tolerant society, why do we need this legislation?'. The truth is that we probably do not need it, but it nevertheless sends a message. It says that we are a tolerant society and that we wish to preserve it. That is what is important about not opposing or rejecting the bill. When we have legislation before us we need to think carefully about where we are going and what we want to achieve. Perhaps we do not need the legislation, but if it sends a message to our community that says, 'We embrace multiculturalism and our multicultural communities because we want people to feel proud of their heritage as well as being part of our society as Victorians and Australians', we will have achieved a great deal.

The Liberal Party not only developed a strong relationship with our multicultural communities, it also did other very important things. Although I did not bring a copy with me to read to the house, one of the things the previous government did that I am very proud of was the introduction of our pledge to multicultural communities and to multiculturalism in Victoria. We pledged that we would live by the principles of what multicultural communities represent. Because we thought it was important to offer those communities support so they could operate on a daily basis, we provided small grants. It was not the amount of money that was important; it was the principle of saying to those communities, 'We want you to be able to operate like the many other groups in our community that have support. We want to offer your members the possibility of having your own clubs so you can come together and enjoy one another's company and celebrate what you represent — that is, your heritage'. The message was, 'We are not saying that to become good Australians you have to put your heritage behind you. We are encouraging you to celebrate your cultural heritage and be part of our Australian and Victorian community'. That is very important.

The previous government set up the office of business skills migration, which I consider to be one of its great achievements. That office recognised the fact that people who come to Australia from other countries bring with them great skills. Apart from their career skills and training, they also offer people in this country the opportunity to use their cultural skills and their understanding of language and cultural traditions as a link to the rest of the world.

The previous government also encouraged people from other countries to come and live in Victoria. The office of business skills migration targeted and set up relationships with countries such as South Africa. A group of people in my electorate put together an organisation to form a network of South Africans who wanted to participate in the process. They wanted to put out the welcome mat, if you like, for those who had come here under the business migration program. We worked with that group to encourage South Africans to come to Victoria. Those people have added a great deal to our community. Many South Africans have come to live in my electorate as a result of the network that was set up. The network offers enormous assistance to those people in setting up businesses, buying houses, putting their kids into school, and so forth. That initiative of the previous government is something members of the Liberal Party should be proud of. It was another indication that we were not on about rhetoric but about doing something to support multicultural communities.

The bill addresses a highly sensitive area. I understand the depth of feeling of those who want to feel secure and protected against vilification, particularly racial vilification. As honourable members know, in many parts of the world vilification has sown the seeds of persecution. My electorate of Caulfield has the highest proportion of Holocaust survivors per head of population anywhere in the world. Thirty per cent of the people in my electorate have a Jewish background. I also have a lot of people from Greece, Italy and many other countries. I am a fortunate member of Parliament in that my electorate is one of the most diverse, and I always celebrate that diversity. I mentioned the Holocaust survivors, who are just one group of people who have experienced vilification and persecution, because they look upon the legislation as giving them some security.

On our side of Parliament we have a number of people who themselves — or whose family members — have experienced vilification and persecution in other parts of the world. My own family has had such an experience, and so I am acutely aware of the impact of persecution on families not just when it happens but for many years and many generations after it has occurred.

I recently attended a celebration for the Jewish festival of Purim which was held at the South Melbourne Elderly Citizens Club for the elderly Russian community who live in the public housing high-rise apartments just over the road from the club. This group of elderly Russian Jewish people, who come from the former Soviet Union, have had the support of the National Council of Jewish Women in helping them find their religion, their heritage and their background in a way that they were not able to in their previous life in the former Soviet Union.

The day I went to help celebrate the festival of Purim a lady gave a speech, first of all in Russian — and of course I did not understand anything she was saying — but then in English. I must admit it was one of the most moving speeches I have heard in a very long time.

She was talking about what it was like to live in a country where you cannot legally practise your religion, where you have to hide your race and religion. Of course, not everybody agrees on whether Judaism is a race or a religion; I do not think it really matters, but this lady was telling the story of how, throughout her life, she had had to hide her Jewishness. She also explained that many people from the former Soviet Union whose passports indicated that they were Jewish in fact did not know anything about their religion.

The lady explained that she had secretly been married under a chuppot — a canopy under which Jewish marriages are performed. When her first son was born, she secretly had him circumcised in order to keep the covenant with God, as she put it, but she said they were the only ways in which she could practise her religion.

She then talked about what it is like living here in Victoria and Australia. She said, 'I do not believe anybody can understand how wonderful the freedom is — the freedom of religion and the freedom of speech. Our life in general here in this country is one that we all are enjoying enormously'.

These people are not wealthy — they live on very limited incomes — but they still celebrate being part of this country. This lady said, 'I am learning so much about a religion I knew very little about. I am learning about Hanukkah, Pesach, about the Festival of Purim, Succoth, and Shavuot', and these are things I also have learnt since becoming the member for Caulfield.

We need to recognise that there are those in our community who have come from pasts that have been difficult. They have suffered vilification and persecution. For those people, while the legislation may not change anything dramatically, it is a little like a security blanket. I do not want to demean it, but it offers the sort of security that they feel is appropriate.

As parliamentarians we had a very important role to play in assessing the appropriateness of this proposed legislation. It needs to be recognised that probably on all sides of the house there are those who have had very deep concerns about whether the bill infringes on freedom of speech. For our party in reaching this position on the bill it was most important that we recognise that people have such concerns.

Therefore we have been looking for a balance. There are those among us who are still not really happy and hold some concerns in this regard. On balance I do not hold such concerns but I recognise that others do. I believe that most of us understand that freedom of speech does not mean freedom to do everything. Freedom of speech does not mean we are free to defame others or to sexually harass others. Freedom of speech does not mean we are free to speak in an obscene way, and now we are accepting that freedom of speech does not mean that we can invite hatred on the basis of someone's religion or race.

But if we look at the application of legislation like this, we see it needs to be acknowledged that while it does exist all around Australia, there have been few prosecutions as a result. Certainly under the New South Wales version of this bill, which is the one ours most closely replicates, there have been no prosecutions since it was introduced in 1989 by Liberal Premier Nick Greiner.

However, even though there have been few prosecutions at a criminal level and even though few cases have been brought before the Equal Opportunity Commission or its equivalent, the bill, more importantly, sends a message to the community. Therefore, if it is to be successful, the focus really needs to be on educating our community.

I do not believe the government has as yet detailed nearly enough what the educative process will be. I encourage the government to introduce programs that start at primary school level, particularly, because that is where children's ideas are formed in relation to how they regard others of a different race and religion. That is most important and that is where the focus should be.

I had conversations with Liberty Victoria. Its public stance is, by and large, that it does not think the bill is necessary. It particularly does not believe that criminal sanctions are necessary. What its representatives said to me in conversation was, 'Now the bill is here, it probably should proceed', but it would like to see the

focus on conciliation and mediation, which it thinks is highly appropriate, and particularly on education, and that is where I believe the focus should be. I hope the government, in gaining the support of the Liberal Party for the legislation, takes that quite seriously and embarks on an appropriate program.

While I cannot and would not discuss what goes on in our party room, I believe the Liberal Party has had a very full and healthy debate on this issue. I was proud of my party today. People felt free to stand and give their views on such a topic. It is a topic that arouses great emotion, and for some it is a difficult topic, but we have come to terms with it and are offering a vote to people who still have concerns, which is appropriate.

I was particularly proud of Denis Napthine, who has shown great leadership on this issue, and I have proudly supported him. I would like to thank a couple of people in regard to the way we have dealt with this process, which started back at the end of last year, and we have come a long way since then.

An honourable member for Templestowe Province in another place has worked diligently as the shadow parliamentary secretary for multicultural affairs. He joined with me and the honourable member for Bulleen in touring Victoria and speaking to communities about the bill. He also did a lot of analysis in relation to the legal aspects of the bill — work that was important in understanding the implications of the model bill and of this bill. I am pleased that I can support the bill and I look forward to its passing.

Mr RYAN (Leader of the National Party) — The National Party abhors racial and religious vilification. The National Party abhors people who are the cause of that sort of conduct and who are prepared to victimise in circumstances where they see an advantage to be had by addressing commentary critical of those who simply seek to redress a wrong where it is apparent.

The National Party believes those sorts of expressions have absolutely no part in our society, and it also believes that Victoria has a deserved reputation for the fact that it, as a society, is accepting of the many people who have come to this state from many other parts of the world and who have contributed in so many ways as they have done.

For my own part, I live in Sale, Gippsland. There is a RAAF base in Sale, which at any point in time has about 750 people working at it. On that base are many people who come from various nations around the world. The oil industry is based in Sale where I live, and by its very nature it attracts people of all persuasions from around the globe.

As I travel around country Victoria I find many of the seats represented by the National Party contain representatives of the vast array of cultures that go to make up this great state of ours. In Shepparton, for example, there is a substantial representation of the Iraqi community. I know you, Mr Acting Speaker, together with the Honourable Jeanette Powell in another place, have done a lot of work in those communities. The honourable member for Swan Hill has joined the debate. Only last week I was in his electorate, where many communities comprising people from various countries around the world are doing what Victorians are famous for — that is, making a great contribution to the state.

Given that background it may seem strange in the first instance for me to say that the National Party is opposed to the legislation. National Party members will vote against it and divide on it, and in all the prevailing circumstances I want say why that is so. In so doing I do not want to detract from the basic beliefs the party holds strongly, and I will discuss those in the course of my contribution.

The first rhetorical question I ask is, 'Why do we need this legislation?'. Victoria is to be commended on being the only jurisdiction in Australia that does not have legislation of this ilk. It is a commentary on Victorians that they are able to live and work in a fashion that enables people of all persuasions to have their place in the state. The passage of this sort of legislation, and this legislation in particular, sends a completely contradictory signal to that basic notion. For example, I refer to the terms of the government's discussion paper, which was issued when this all commenced some months ago. At page 6 it refers to the fact that Victoria comprises people from more than 208 countries, and that Victorians speak over 150 languages and follow more than 100 faiths, making Victoria the most culturally diverse state in Australia. It states that:

> Whilst there are no large-scale community relations conflicts research suggests that elements of racism remain endemic in our society.

I concur with those sentiments entirely. However, by enacting legislation of this nature we are sending a completely contradictory message to the world at large and flying in the face of the sentiments that are expressed in the government's own discussion paper. It sends the message that Victoria has a problem with racism, religious vilification and victimisation. The legislation is all the more contradictory when one has

regard to the content of the second-reading speech. It states:

> The people of Victoria come from many different ethnic backgrounds and indigenous cultures and observe many different religious faiths.
>
> Victorians take considerable pride in the fact that people from these diverse backgrounds live together harmoniously in our community.
>
> This diversity has enriched Victoria.

Again I strongly agree with these sentiments. It is not sufficient to say, with the greatest respect to those who are in support of the legislation, that the bill ought be passed because there is no problem at the moment of a dimension that would justify it but it is a comfort to those who have a concern about the prospect of any such problem developing. That is not enough. The legislation is so fundamental to who and what we are that the bill should not be introduced or passed unless there is a demonstrated need for it.

I accept that this is not a perfect world and there are people who are misguided enough to make the sort of comment to which this legislation is devoted. I accept that implicitly and understand the mood of some that has moved them to bring in the legislation to accommodate those people. However, without wanting for one moment to cheapen or detract from the importance of the issue to those for whom it is an imperative, I believe we are using a sledgehammer to crack a nut. I believe the problems that underpin the views of those who make the comments to which this legislation is intended to be devoted, to the extent that they are made in Victoria, can be dealt with in other ways.

I again refer to the government's second-reading speech. It states:

> While the rule of law can influence behaviour, I want to emphasise that the government sees legislation as only one plank of the strategy in dealing with racial and religious vilification.
>
> Most importantly we will focus on a range of non-legislative measures designed to promote tolerance and mutual respect, and to deal with conduct that vilifies.
>
> The major means by which we will combat prejudice will be through education.

The National Party is in absolute accord with that approach. The National Party thinks the best way to deal with the problem, to the extent that it exists in Victoria, is to go through the process of education in all its forms and spheres to enable people to have a better understanding of the matters that concern the people who feel threatened by the sort of commentary to which this legislation is devoted. The National Party believes we have made inroads in the drug debate, for example, and that that approach can be used as a model of the way educational programs can be undertaken in this area. We think it is important for the great benefits Victoria has gleaned from its wonderful multicultural structure — the fantastic contributions made by the people who have come to our country — to be demonstrated to children at a young age in our schools. One of the great ironies is that so many children in schools these days come from families who have made that contribution.

The National Party believes there is extremely fertile ground to be able to lift the level of education to ensure that the sort of dreadful conduct that is the subject of this bill does not eventuate in our society. That is only one small aspect of the education process that could be undertaken. We think the education process should be undertaken broadly throughout the community to ensure that the position in Victoria, which is generally a fantastic acceptance of the people who have contributed much to our society and made us who we are, can continue. The National Party thinks the education programs flagged by the government are absolutely to be commended, and I commit the National Party's support of them.

I wish to say in this most public of forums that I was involved in the law for 16 years; I practised litigation in a country location acting for plaintiffs only — for people making claims because they felt they had been wronged; I have been involved in politics for almost nine years; and I have already said that I live in Sale. I can say to the house and others in this place this evening that never once in that total of 25 years has anyone come to me in either of the guises I have described to complain about the conduct underpinning the basis of this legislation. Some may say I am fortunate, naive, sheltered or whatever, but in questioning the need for this legislation I say that the people in this place, including me, are products of our backgrounds to a greater or lesser degree, and that that has been my experience of these issues from my own perspective.

Ironically, there is the risk that the bill may create the problems it seeks to avoid. The notion of freedom of speech is important for us all, and I will return to that point later. There is the risk that in enforcing the legislation it will only encourage those people who have it in their minds and hearts to do ill to undertake the sort of conduct that the legislation is designed to overcome. There is the risk of a person who may unkindly be described as a religious zealot being inspired to take the action referred to in clause 8 if he or

she feels the obligation to do so. On the other hand, there is the risk of an individual whom I would describe for these purposes as an artistic agnostic being tempted to undertake a course of conduct that draws the defence provided by the exceptions in clause 11. I genuinely fear that the bill may engender the sort of activity it is seeking to avoid, which we all abhor.

The same sort of commentary applies to clause 7, which deals with racial vilification, and the exceptions that appear in clause 11. I refer to correspondence that has been distributed around the Parliament. It is a copy of a letter sent to the Premier, which I think is dated 3 July — the date is slightly obscured on my copy — from the Most Reverend D. J. Hart, diocesan administrator of the Catholic archdiocese of Melbourne. The letter consists of three pages, but on this point I refer specifically to only two parts of it. It states in part:

> On a personal note, I share Archbishop Pell's scepticism about the desirability of this legislation.

It goes on to discuss the basis of that comment and concludes:

> Legislation such as this was proposed in 1992. Archbishop Little was very critical of it. He said that it would have the tendency to drive the issue of racial and religious vilification underground. There is racial and religious hatred in our society, but not in such proportions as to justify this type of legislation.
>
> For these reasons, I am fearful that this legislation may end up being used to attack the religious freedom it seeks to protect.

That encapsulates the concern the National Party has about the situation.

The experience of other jurisdictions is instructive. The position in New South Wales has already been described by the shadow minister, and I do not intend to analyse it in detail. Suffice it to say the occasions on which the legislation has been used in those other jurisdictions have been few and far between over the years.

On the one hand it might be said that that goes to demonstrate that it is by some measure a deterrent. However, I believe it establishes that in practical terms the legislation is unnecessary and shows why Victoria does not need it.

Victoria is subject to the commonwealth legislation that provides options on this issue. I appreciate that those who favour the legislation regard those options as deficient. It would be interesting — and I have not done it — to see how many people have sought to access the rights available to them under the commonwealth legislation. They are the general bases upon which the National Party is concerned about the bill.

I turn now to a consideration of the legislation itself, which creates both civil and criminal liabilities. The civil liabilities are to be pursued through equal opportunity legislation, and at the moment the criminal liabilities are to be pursued by summons. However, I understand that the amendments proposed by the Liberal Party and the honourable member for Gippsland West would mean that the Director of Public Prosecutions would need to authorise those forms of prosecution.

In either event the punishment applied will be the same, the penalty being six months imprisonment or a maximum fine of $6000. In those circumstances, the clarity of the legislation becomes imperative. If people in the community at large are to be subject to the civil liabilities contemplated in the Equal Opportunity Act or the criminal liabilities contemplated in the Racial and Religious Tolerance Bill, they must be certain of their place in the scheme of things so that there are no unintended consequences.

The National Party has grave concerns about the content of the legislation, some clauses of which I will refer to. Clause 7 uses several terms that will inevitably be the subject of a vast array of litigation — for example, the term 'conduct'. The notes to clauses 7(2) and 8(1) say:

> … 'engage in conduct' includes use of the internet or email to publish or transmit statements or other material.

In passing, as a matter of drafting I do not understand why that provision appears where it does in clause 7 as opposed to where it appears in clause 8, but that is by the bye.

Although that is one definition of the term 'conduct', there are a vast array of others that can be applied. From that definition we know that it applies to the written word, but presumably it also applies to the spoken word. Does it apply to things that are acted out? Because there is reference to performance, exhibition or artistic work in other places, presumably it does. Does it apply to what might be termed rude signs made across the street or across a room from one individual to another?

There was a pertinent example of that during a recent soccer game in Melbourne. During the course of the game a player made what to me as an outsider was a completely innocent sign on his guernsey, yet it resulted in a riot. He placed three fingers across his chest in such a manner as to incite absolute uproar in

the crowd. That is an example of where this definition of conduct will go in time to come.

Sitting suspended 6.30 p.m. until 8.03 p.m.

Mr RYAN — Before the break I was exploring the difficulties that arise from the use throughout the legislation of terminology that is not defined by the legislation. I was making the point that, this being the case, there is a certainty that in time to come when this legislation is sought to be enforced we will necessarily have a raft of litigious activity about what these various expressions mean. I was talking about the use of the expression 'conduct'. It is defined to a limited degree within clauses 7 and 8, but for the reasons I demonstrated the definition is only partial. Experience of the litigious process will provide the rest of the definition unless the government further defines it. I will come back to this point about the use of words in a moment.

Clause 8(2) refers to the conduct about which a complaint can be lodged and says it:

> (a) may be constituted by a single occasion or by a number of occasions over a period of time; and
>
> (b) may occur in or outside Victoria.

For the life of me I cannot find the relevant provision within the Equal Opportunity Act — on which a lot of this legislation is modelled — that provides the time limits. There is discussion about expedited complaints and the like and the time limits applicable to that, but nothing in relation to an actual complaint. The question I raise for the consideration of the government is: over what period of time can a series of events be considered for the purpose of constituting a complaint? Does the Limitation of Actions Act apply to the provisions of this legislation and, if so, in what way? Is there a one-year limit? Do the actions that are said to constitute the grounds for a complaint have to occur over a period of 12 months or 3 years or 6 years? What is the limitation period if one does apply?

Clause 9 refers to an area that has been the subject of a fair deal of community concern — that is, the issue of motive and the dominant ground being irrelevant when considering the comment made by a person whose conduct is the subject of a complaint. In essence it says that the motive of any such individual is irrelevant. I believe most people would find that provision very troublesome. Take, for example, what turned out to be an unfortunate incident that occurred on the Australian Football League (AFL) scene recently. A player made a comment about another player, using the expression 'coconut'. As it transpired, that term is particularly offensive to the Aboriginal race, to our indigenous people.

For my part, I had absolutely no idea that that was the case. The player to whom reference was made is bald. In my obvious ignorance as an observer I misunderstood the use of the term and considered that it was intended to be a description, albeit not the most glamorous, of the player and that it was specifically directed to the fact that he does not have any hair. As it turned out, I read subsequently in the media that that was not the meaning of the word at all as interpreted by our indigenous people. In fact, it had a much more malicious interpretation, and the use of that expression was the subject of consideration by the AFL for the purpose of mediating an outcome between the two players. That is an instance that comes to mind where the question of motive is irrelevant under the terms of this legislation and yet the person concerned could quite innocently use that expression or any one of a thousand others not understanding that that usage could constitute something dreadfully hurtful.

I return to the point about freedom of speech. Given the terms of this legislation people will be concerned about the use of expressions generally for fear of being subject to its provisions. Clause 10 recites that even if an incorrect assumption is made as to race or religious belief that is a matter of irrelevance for the purposes of applications under this legislation.

Clause 11 deals with the exceptions. I have dealt with that issue in the generalist sense, but I return to it to this limited extent: again we run into this problem of what constitutes the definitions of the various terms used. I will read through them quickly. What is the definition upon which this legislation will be enforced with regard to 'engaged in reasonably and in good faith'? What does that expression mean? What does the expression 'performance, exhibition or distribution of an artistic work' mean? The interpretation of all these things will be subject to plenty of litigation.

For example, what is to be made of a street performer — a busker — who is doing nothing more than plying his or her trade? Is that person — —

Honourable members interjecting.

The ACTING SPEAKER (Mr Seitz) — Order! There is too much audible conversation in the house. Honourable members should leave the chamber if they wish to continue their conversations.

Mr RYAN — Is a person busking outside Myers department store regarded as being involved in a performance, an exhibition or the distribution of an

artistic work? How will that be interpreted? A question arises about the use of the terms 'statement', 'publication', 'discussion' or 'debate'. Again, all of those could be the subject of that sort of consideration.

Clause 11(b)(i) refers to:

> … any genuine academic, artistic, religious or scientific purpose.

Each of those expressions will invariably be the subject of debate. What about an outrageous group that might have a point of view to put that is patently defamatory of an established religious group? It might argue that it is participating in a genuine academic, artistic, religious or scientific debate. These sorts of issues will come up — —

Honourable members interjecting.

The ACTING SPEAKER (Mr Seitz) — Order! Again, I ask honourable members to leave the chamber if they wish to continue their conversations. It is rude and disrespectful to the honourable member on his feet. I ask honourable members to respect the wishes of the Chair and vacate the chamber if they want to continue to talk. I ask the Leader of the National Party to pause until the house settles down.

Mr RYAN — The term 'public interest' will be open to debate without a shadow of doubt, as will the term 'fair and accurate report'. Either of those will keep the system running for days on end. I come back to the point that with legislation of this nature clarity is imperative. However, this is not about clarity, it is about confusion. The legislation will create enormous confusion in the community.

Clause 12 deals with exceptions relating to private conduct. Again, you could have a discussion forever as to what constitutes private conduct. The bill deals with other unlawful conduct, including victimisation. I do not intend to go through each of the provisions, but suffice it to say that the same uncertainty surrounds all of them to a greater or lesser degree. I will refer to clauses 17 and 18. Clause 17 deals with the vicarious liability of employers and principals, and clause 18 deals with the exception to vicarious liability. These two provisions are patently unfair and should be deleted from the legislation. Were it not for the fact that, for the reasons I have put to the house, members of the National Party have taken a view against the legislation generally, we would seek to move the amendments to that effect.

Although I do not have the Equal Opportunity Act with me, I understand that clause 18 is a direct lift from the act and clause 17 is very much akin to it. The wording is almost identical. They have no place in this legislation because I do not believe the principle of vicarious liability has any application here.

Vicarious liability certainly has a place in common law. The notion has grown that if you are an employer, you are ultimately responsible for the system you adopt for the purpose of having employees work for you. For example, if you are running a timber mill you need to train your employees to make sure the guard is over the saw. If someone is injured because the guard is not on the saw — and that has happened because an employee has not done their job properly — you as the employer are vicariously liable for that negligence. It is a well-established principle of law. It has a place in the workplace to the extent that it relates to the nexus between employer and employee based around the way a job is done.

The situation also applies under the Equal Opportunity Act, where an employer could be held vicariously liable for the actions of an employee who victimises others. If the employer knows it is happening and lets it go, you could see how the employee's conduct could draw an accusation of vicarious liability. It is a pretty long bow, but you could feasibly see how it could be done.

However, I do not believe vicarious liability has any place in this bill, because no employer can be held responsible for an employee's background, what may have constituted their upbringing or the cultural differences between people. No employer can be held responsible for the fact that an employee from another part of the world might bring with them standards that are entirely different from those that apply in Victoria. Those standards might have no application to us and, indeed, might be regarded as completely inappropriate. Language difficulties might also cause problems.

I have already spoken about Sale, where the oil industry and Royal Australian Air Force base attract workers from up to 40 different nationalities. I was in Swan Hill last week, where I understand about 120 people from the Tongan community work. As an employer what are you supposed to do to adapt to the situation these provisions impose upon you?

Further, the structure of the provision is absolutely unfair, because it states:

> … the employer or principal must be taken to have contravened the provision …

That applies in the event that a breach is said to have occurred against the individual who committed it. It is not a question of 'may'. Clause 17 says that if an

employee or an agent — and I will come back to that in a moment — commits this breach, it 'must' be regarded as constituting vicarious liability on the part of the employer or principal.

I believe that is wrong and should not be there. What happens is that, as things stand, the employer or principal is guilty of the offence there and then — subject at least to the civil provisions of the legislation and those contemplated by the Equal Opportunity Act. That is not to say that the other provisions involving criminal charges cannot be brought to bear.

The employer or principal must go to the tribunal and prove his, her or its innocence. The onus of proof lies with the employer to prove innocence. I say again that that is absolutely unfair. It should not happen, particularly in the context of this legislation. It is tough enough that it should apply in the Equal Opportunity Act, but it is terrible that it should apply in this legislation.

The terms used throughout those two provisions include 'reasonable precautions'. The employer will not be guilty if reasonable precautions have been taken. What in heaven's name does that mean? Are signs to be put up? If people from various backgrounds are working in one work environment should signs be written in the languages of each of the people hired? When a new employee is engaged who has a different background, how long does the employer have to erect a sign in the new language? Where should signs be displayed? How big should they be? Should multilingual information be handed out to all employers in the form of a dodger? Should the employer be required to run classes or to call employees together as a matter of course on a regular basis to instruct them; and if so, how regularly? I believe the provision is just not fair.

Who constitutes an employee? Presumably the general definition will apply, but the question can be the subject of much discussion. Similarly, who is an agent? What if a subcontractor is engaged to go down to the railway station and pick up a package on behalf of the employer or principal, and while there engages in conduct that is said to breach the legislation? Is that person an agent for the purposes of that provision?

Who is a principal? Is it the person whose name appears on the letterhead of the firm? Is it one of the partners of the firm? Is it a director? Is it the managing director? Who is it? Do we need to have regard for the structure of the company? Might it be the secretary? How are we going to determine who is a principal? Those are but some of the issues that come to mind that render those two provisions patently unfair, and they should be deleted from the bill.

Part 3 deals with complaints and conciliation, and has been substantially lifted from section 104 onwards of the Equal Opportunity Act. That explains why provisions relating to a child suddenly appear in clause 19(1)(c). A child is defined in the bill as a person under the age of 18 years — that is, 17 years of age or less. That provision is a direct lift from the main part of the Equal Opportunity Act, where it is explained who may complain. I think I am right in saying that the original draft of the bill contained no reference to a child and that it materialised later on, for some reason or other. I cannot but wonder why.

I move straight on to clause 21, because the intervening clauses are all based on the Equal Opportunity Act and are there to be read. Clause 21 provides that the commission must assist the complainant in formulating the complaint. That again is a direct lift from the Equal Opportunity Act, but I mention it because it carries the implication that the commission is not impartial in its conduct of the application. People can reasonably read from the wording of the clause that it implies, if it does not directly state, that a person appearing before the commission will be assisted by the commission to the point where the independence of the commission can be justifiably said to be lost. That will be a cause for concern in the community.

Clause 22 concerns unincorporated associations and proceedings against them. I refer in particular to clause 22(2), which deals with the death, resignation or removal of the person named in a complaint, in any of which events the complaint can be continued against the association in the name of that person's replacement. That is going to be a lovely state of affairs! In every unincorporated association that has the misfortune to be involved in such a proceeding there will be a fight at the annual general meeting to take over the role of replacement for the person named in the complaint. There will be a real battling for position in such organisations! That seems unfair to me.

Clause 23 deals with the adaptation of the bill to the provisions of the Equal Opportunity Act, and for some reason clause 23(3)(b) refers to periods of time being doubled. Time limitations and time periods in their various forms that apply in the Equal Opportunity Act do not apply here but are doubled. I have to ask why that is so.

Part 4 deals in clause 24 with serious racial vilification and in clause 25 with serious religious vilification. Both involve significant charges, each prospectively

involving criminal charges that can be laid against the persons referred to. The charges carry fines of $6000 or six months jail or both, and a body corporate could face a $30 000 fine. By any measure they are substantial offences that carry a heavy punitive cost.

I note the proposed amendments of both the Liberal Party and the honourable member for Gippsland West that insist on the involvement of the Director of Public Prosecutions (DPP) for the purposes of those charges being laid. We have just had formal notice of that. It had been talked of but we have not considered it and will have to consider it before the matter comes to a head.

On the one hand, that the DPP should have to be involved highlights the seriousness of any such offence. On the other hand, I wonder about the actual application of the legislation in the everyday sense in which it is supposed to operate if the police officer who has been at the scene and conducted interviews and the like is not able to conduct this process by way of an ordinary summons. In any event, we will consider that matter over the course of the next little while.

The penalties apply not only to a body corporate or a legal entity but also to individuals. That is a heavy and onerous price for people to pay in the event that they are subjected to this sort of application.

Clause 27 is headed 'Liability of a body corporate'. Subsection (4) states:

> If an employee, agent or officer of a body corporate engages in conduct on behalf of the body corporate within the scope of his or her actual authority, the body corporate must be taken, for the purposes of a prosecution for an offence against this Part, also to have engaged in the conduct unless the body corporate establishes that it took reasonable precautions to avoid the conduct.

Again, there is the notion of vicarious liability.

I do not intend to dwell on the bill further and wish to make some closing comments about it. In so doing, I reiterate the points that I made at the outset. The National Party can rightly claim to be a very egalitarian group. It represents country Victorians. All sides of politics would accept the fact that in country Victoria, by definition, there is a mix and match of people who differ enormously having regard to where you may find them and from whence they may have come. National Party members pride ourselves on having an association across all manner and means of people and on the fact that we can have conversations — indeed we do — with people from all backgrounds. We work closely with many of them because they are integral to our fortunes in country Victoria at large. Over time many of those people have made contributions to the point where they can justifiably lay claim to having an ownership of the rich history of country Victoria. We pride ourselves, as I said, on being able to interact with them.

I do not believe the legislation serves the purpose of its stated intent. Rather it has the prospect of being divisive. It is not necessary because, for all the reasons that are outlined in the second-reading speech and the discussion paper and those that I have canvassed here this evening, Victorians should take pride in the fact that the sort of conduct contemplated by the legislation simply is not part of the way we are and who we are. It just is not us.

This sort of legislation cannot be brought before the house on the basis of looking to accommodate or mitigate a risk which might arise at some time in the future and in relation to which some elements and aspects of our community feel a degree of exposure. That is not the way to approach it. Rather, if we bring legislation into the Parliament we do so on the basis that the message can be well spread to the community that we not only perceive that there is a problem but deem it necessary to bring in legislation to deal with an identified problem encountered by members of the community. It can be said fairly on behalf of Victorians that that simply is not the case.

National Party members concern themselves about those issues. We believe that the instances where people conduct themselves in ways that would attract the terms of this legislation are highly infrequent. We do not believe as a matter of course that Victorians have the malice or viciousness about them that would give rise to the sort of complaint that is described or contemplated by the legislation.

We share strongly the notion that is felt around this chamber about the entitlement of Victorians to freedom of speech. We are concerned that if the legislation passes there will be an impingement on that right that separates us from many other communities, not only in this state but in this nation and around the world. We believe that in all the prevailing circumstances the legislation is inappropriate, and that is why we oppose it and will vote against it.

Mr MILDENHALL (Footscray) — I am pleased to be in the fortunate position of being the first speaker for the government to contribute to the debate on the Racial and Religious Tolerance Bill, which rectifies an historic anomaly. A national shortcoming on Victoria's part is being overcome, and we, as a Parliament, representing the wider Victorian community, have the opportunity of

stamping our set of Australian values into the Victorian statute book and putting on the record our commitment to a fair go, to egalitarianism and equity in this community. It is an attempt to put our arm around our neighbours and fellow community members and say, 'We value you, we will protect you from those who would do you harm'. It is an honour to be present for the introduction of this legislation, which is being supported by most members of this Parliament.

It was gratifying to hear that the main opposition party, the Liberal Party, will support the bill, in the words of the shadow minister. Of course, it was a little sad to hear of the obvious ambivalence, equivocation and trauma that the Liberal Party has gone through to arrive at that decision. The trauma and the difficulty, and one could say reluctant support, was written all over the contribution from the honourable member for Caulfield. However, I will not decry the generosity of at least some of the sentiment. Liberal Party members had obviously been through a divisive, emotional and heated argument in the time leading up to the debate.

I would be interested to hear about the peace and harmony, which is the theme of the debate, that was evident in the opposition rooms. It must have been fascinating to have been a fly on the wall during the extraordinarily extended and heated debate today!

On the other hand, I was sad to hear the contribution from the Leader of the National Party. For him to argue that the legislation is not needed, that by implication the other states have got it wrong and that racist activity and racial vilification does not occur in this community is not only short-sighted but an extremely blinkered view of the community in contemporary times.

I ask members of the National Party to reflect on a letter recently circulated to state members of Parliament from the Reverend David Pargeter, the director of the justice and world mission unit of the Uniting Church in Australia. He provides some case studies of vilification from a range of different communities and organisations that are in contact with the Uniting Church: the ecumenical migration centre of the Brotherhood of St Laurence, the Aboriginal and Torres Strait Islander Commission, the Australian Arabic Council, the Ethnic Communities Council of Victoria and B'nai B'rith, the anti-defamation group. There are some hair-raising stories in there and I ask members of the National Party to consider them. They are studies of contemporary behaviour that has occurred in this day and age in our community. They are deeply troubling and I ask members of the National Party to recognise the sincerity with which they are offered to assist in our deliberations.

The Leader of the National Party had a great deal of trouble with the bill. He went to great lengths to find its vulnerabilities in structure and expression, like an exercise you do when you are looking for ways to criticise a piece of legislation. In that respect his contribution went overboard. As members of a community and as members of Parliament we are under an obligation to support measures that bring the community together to prevent and discourage hatred that would tear our community apart.

The community forum that was held in my community in Footscray was well attended. A couple of hundred people showed almost unanimous support for the bill. One or two people came down from the mountains, a long way from Footscray, to say, 'This is a public meeting; I have a right to have a say, and I vehemently oppose it'. However, the vibrant, caring multicultural community in Footscray sent a clear message to the Parliament, 'We have experienced racism, we have experienced racial vilification'. Vietnamese people told me of fronting up to a job at a local venue to be told, 'No, we don't employ yellow monkeys here'. I ask honourable members to consider what sort of impact that would have on each of us if we were labelled in that way.

As the second-reading speech and much of the material we have seen suggests, racist behaviour and vilification causes an enormous sense of insecurity, particularly among the vulnerable in the community. When you read some of those case studies you see examples of that. It also causes a sense of exclusion and disconnectedness from the community and the land, while in speeches at citizenship and other ceremonies all honourable members invite people to fully participate in the community and make it a better place. To be vilified or labelled on the basis of race is an extremely damaging and nasty experience which divides communities and causes people to hide and to fear.

Even if Victoria does not have a prosecution for 10 years, as has been the case in New South Wales, the fact that the legislation is on the statute book, that it is available and that it provides a reference point to say, 'These are the standards we aspire to, these are remedies that are available if this sort of behaviour gets out of hand', is extremely important. It is a measure that other states and many other countries with far greater problems than Victoria have obviously seen the value of.

What is sad about the debate is the number of extremists who have come into the public arena. Like many in this place, I have been inundated with some

extraordinary claims. One of the first I received was that it was obvious that the intent of the legislation was to ban Carols by Candlelight. Some of the material that has appeared in the context of the debate has saddened me as a member of the Parliament. A lot of what has been said about the definitions in and the intent and scope of the legislation, and about the balance of rights, was precise and worthy of the debate, because they are the things that have rightly concerned us. However, extraordinary fears have been aroused that somehow the Parliament would contemplate banning Carols by Candlelight or free speech, or constraining reasonable public debate, artistic pursuits or religious behaviour.

One reaction I had was to wonder what sort of assumptions and views people had about the honourable members who make up this Parliament that we would contemplate doing absolutely unreasonable and extreme things. The bill is quite a fine product and the result of a lengthy consultation process.

I reject absolutely the Liberal Party's comment that the government did not consult in detail and did not put up detail for examination. The sincere and committed approach by the honourable member for Dandenong, the Minister assisting the Premier on Multicultural Affairs, in putting out a model bill set the standard in this state in terms of consultation and public debate. He did this by putting out a model bill and saying, 'This is the manifestation of what we would like to do. Comment on it and tell us what you think of it'. Predictably, that created an enormous amount of debate, and out of it we have probably come as close to consensus as we are going to come in this chamber.

There are many amendments to consider, but I am sure that in the end the wash-up will be a product that will satisfy 75 per cent or more of the honourable members in this house. Given the contentious nature of the subject matter, that is a fine achievement for this Parliament and all those who have participated in the debate.

I wish both the bill and the intent behind it well. I want to see our community grow together and for us to have the highest aspirations. I want to see people participate in the community — particularly those in my multicultural electorate — without fear and with a sense that the community is behind them and will protect them not only from racism via other legislation, but also from the vilification that sometimes occasions unfortunate comments the like of which we have heard in the examples presented by the Uniting Church. I hope, as a result of this legislation, we will see not only a fairer community but also one in which the recently arrived and the more vulnerable are protected and feel safe.

Mr SAVAGE (Mildura) — Unlike the honourable member for Footscray, I vigorously oppose this bill, which I believe is unnecessary. At the same time, I do not question the motives of the government. From the outset I want to make it quite clear that, like all honourable members in this place, I do not support any form of racial or religious vilification under any circumstances. The failure to support this bill does not mean that any of us are in any way condoning hate speech or similar abhorrent behaviour.

Australia, and especially Victoria, has a strong and racially tolerant history. I have not seen significant examples of racial and religious vilification anywhere. The anecdotal evidence that supports this legislation suggests that such examples are few and far between. Nevertheless, either the bill will seriously inhibit free speech or there will be a significant fear of crossing that boundary and avoiding the potentially controversial outcomes. This fear will inhibit free speech and perhaps the obvious outcome would be the referral of matters to the Victorian Civil and Administrative Tribunal.

One of the things that we should remind ourselves of occasionally is what free speech is. In the British House of Commons during May of 1797 Charles Fox stated:

> Opinions become dangerous to a state only when persecution makes it necessary for the people to communicate their ideas under the bond of secrecy.

Another quote from Woodrow Wilson states:

> The wisest thing to do with a fool is to encourage him to hire a hall and discourse to his fellow citizens. Nothing chills nonsense like exposure to the air.

Among other things, this bill would take away the right of a parent to have full decision-making control over a child. According to the bill, a five-year-old could be making a decision contrary to the wishes of the parent. Employers could become vicariously liable for the unreasonable actions of their employees. On the basis that most employees are adults, there should be some form of self-discipline exercised so that people will not have to place the responsibility on others.

It has been put to me that this is consistent with other forms of equal opportunity legislation, but it is my view that this is becoming quite a different issue. Employers are under enough pressure already and to make them liable in a vague sort of a way would make it more difficult for them to survive in business than it already is if they are to be faced with this particular problem.

I find the artistic and religious exemptions somewhat puzzling because, by having those exemptions, the standard of proof is raised much higher than for the ordinary citizen. You could look back and see some artistic or theatrical outcomes that have been most offensive to thousands of Christians in this state. Both the Serrano exhibition and the play *Corpus Christi*, in which Jesus Christ is portrayed as a homosexual, are offensive to many people, yet they are exempted from this legislation by the mere fact that it contains a number of exemptions.

Before addressing the content of the bill it is appropriate for me to indicate that there are a number of influential groups in this state that are seriously opposed to this legislation. In an article in today's *Age*, Liberty Victoria president Chris Maxwell states:

> The Bracks government's Racial and Religious Tolerance Bill is neither necessary nor appropriate.
>
> Existing law already provides a range of criminal sanctions for racially or religiously inspired speech.
>
> …
>
> Merely 'giving out pieces of paper' should not be a criminal offence.
>
> …
>
> The only effective way to tackle racial and religious intolerance is through intensive, long-term educational programs, with an emphasis on prevention rather than cure.

Free Speech Victoria president Terry Lane wrote to me on 29 May stating:

> We do not believe that the few small changes made in the bill deal with the fundamental objections to it. It remains a piece of legislation that can, and almost certainly will, be used to restrict freedom of speech in the future.
>
> We are sure that you share with us an abhorrence of cruel and hateful speech, racial slurs and religious intolerance — but these are issues of the mind and spirit that cannot be dealt with with the blunt instrument of the law. There is no alternative to the slow, but in the end effective, process of education, example and reason.

The former Catholic Archbishop of Melbourne, George Pell, said:

> I remain to be persuaded of the necessity of legislation such as the Racial and Religious Tolerance Bill.
>
> …
>
> Any such legislation should apply equally to all and, thus, there should be no exemptions.

The current diocesan administrator, Bishop Denis Hart, said:

> On a personal note, I share Archbishop Pell's scepticism about the desirability of this legislation. The legislation does not define what it means by 'religion' or 'religious belief or activity'. In another context, the High Court has given a very broad interpretation to those words. The free discussion of religion is one of the most important freedoms in our society. The importance of religious belief to most people inevitably means that different people are likely to find some part of it hurtful.

The Presbyterian Church of Victoria said:

> The government has not to date demonstrated that Victorians either want or need this bill … Clearly from the level of submissions made and their reported content a large number of Victorians do not want the bill and see it as a dangerous infringement on their rights as citizens of this state.
>
> …
>
> Nor is there any indication within the bill as to how complaints against children (defined as under 18) will be dealt with …
>
> This bill is anti-small business, placing an unfair burden on employers, particularly by including areas of an employee's behaviour at work …

The Australian Christian Churches have issued a media release, taking very strong exception to the bill. In addition, the Victoria Police put in a submission on the previous model bill. The question was asked:

> If a criminal offence is created to cover vilification, should the legislation provide that a person may go to prison?

The answer was:

> Victoria Police maintains there should not be a criminal offence of racial vilification.

I want to include on the opposition list the Australia-India Society.

Members would have received hundreds of letters on this issue; I understand the government has received more than 5000 letters and submissions on it.

The experiences in the other states are worthy of mention. Queensland has had one complaint and no prosecutions since 1991. New South Wales had 26 complaints in 1998–99 and 38 in 1997–98, and no prosecutions for serious vilification, even though attorneys have had several recommendations to do so.

Tasmania has no criminal provisions and there have been few complaints since proclamation in December 1999. The Australian Capital Territory has had a small number of complaints because the threshold is high. South Australia has no provisions for conciliation; the commonwealth has no criminal provisions, and the Human Rights and Equal Opportunity Commission cannot enforce decisions. There is no report from Western Australia.

The race watch committee established before the 1998 federal election failed to uncover any serious instances of racism, despite having 1000 volunteers on the alert.

A legal opinion has been provided to me on some aspects of the bill and I will detail some of that material during the committee stage, but one aspect that has probably been overlooked by many honourable members is that this legislation will give significant protection to what can be described only as a very dangerous cult, and that is the Church of Scientology. This group of individuals who call themselves a church has been described as a 'school for psychopaths'.

Terry Lane on the ABC on 17 March 1996 interviewed Nick Herd, the Australian Broadcasting Authority director, over the threat to remove 3RRR's licence over a segment on what was called the Liars Club. He described the Church of Scientology, and justifiably so, as:

> … an organisation which has been subject to investigation and report and, at one time, banning in three states in Australia, its leaders have been imprisoned in a number of different places in the world, the American Internal Revenue Service has accused the church, or the so-called church, of tax fraud, in Spain it's been investigated and it has been denied status as a religion, in Germany they've been investigated and accused of infiltrating political parties, in Canada nine of its members were prosecuted for stealing government documents …

Is that an outcome that we as a Parliament wish to have on our conscience? I am unconvinced that Victoria needs this bill. We already have the Crimes Act and the Summary Offences Act, which are very effective tools, and I do not understand why they have not been used more widely. As the honourable member for Footscray indicated, where people have been seriously insulted they could also have used the equal opportunity legislation, at the very least.

Free speech is a very important thing, and that is not to condone the use of hate-filled language or vilification, but it is a fundamental principle of our society. I believe that the very ethnic groups who are purported to be protected by this bill will invariably be the ones that suffer and potentially will be disadvantaged.

The bill has received widespread opposition. I do not believe it has the majority support of all Victorians, and I have some serious misgivings as to how the powers of search warrants will be issued.

I also feel it is most inappropriate for a child of any age to be able to make a complaint without reference to their parents.

I know other members wish to speak on the bill and I will conclude with a quote from Lord Byron's play *Don Juan*:

> I may stand alone,
>
> But would not change my free thoughts for a throne.

Mr HONEYWOOD (Warrandyte) — In preparing for tonight's debate I looked back to the motion that was passed unanimously in this chamber at the time of the Pauline Hanson so-called ascendancy back in 1996. At that time in my capacity as Minister assisting the Premier in Multicultural Affairs I quoted from the words of a truly international song, and those words are:

> You've got to be taught to hate and to fear
>
> You've got to be taught before it's too late
>
> Before you are six or seven or eight
>
> To hate all the people your relatives hate
>
> You've got to be carefully taught.

It may surprise honourable members to know that those words are from the Rodgers and Hammerstein musical *South Pacific*. Both in 1996 and now, to me those words contain the message that racism is something learnt rather than something that comes from an internal process or the genes. I guess back in 1996 I had high hopes that we would not need this legislation, that Victoria was somehow better than certain other parts of this wonderful nation when it came to tolerance, acceptance, and inclusion.

However, I would like to mention to honourable members an incident that happened to my family and me on the front steps of this very building only a few months ago. We pulled up on a Sunday outside the front steps on a beautiful day. My wife, my two children and I were going to the movies. Coming towards us were three young Anglo-Celtic Australians in their late teens, and on the front steps of this wonderful building was a busload of Asian tourists.

Suddenly, before you could blink or do anything, the tallest and roughest of these three young Australians started screaming out, 'F—— ing slant-eyed Asians, why don't you go back to Tokyo?'. He did it not once, not twice but three times. My gut reaction was to go over and do something physical, which I probably would have regretted afterwards. My 12-year-old, my 10-year-old and my wife had reactions that were totally similar in their own way. They said, 'Dad, can't you do something? You have got to do something. You can't allow that'. Unlike me they did not live in Japan for two years and share accommodation with Japanese families. They had not had the experience of living in another

culture, which fortunately I did as a young man, but their reaction was innate. They felt that this type of behaviour being projected by young Australians had to be stopped.

I went over to the protective services officer on the front steps and said, 'Can you stop these three young hoods from ruining Australia's reputation?'. The officer replied, 'I'm sorry, Mr Honeywood, but I have no power or jurisdiction in this area. The most I can request them to do is move on'. We have not come very far since the debate in this chamber in 1996, when all honourable members unanimously supported a motion that highlighted that there is no place for Hansonism, and that racism is repugnant, morally wrong and should be condemned. We in this country, and particularly we in Victoria, should do all we can to lead the way. Given that the honourable member for Mildura argues there is no need for this legislation, he might like to reflect on what happens on the front steps of Parliament House when you park your car of a Sunday morning.

Another point that is pivotal to the debate is balancing out both sides of the argument. To those colleagues who have argued or who will argue this evening that church groups have the right to speak out and argue whatever they want in the public arena, I say yes, many church groups do have a right because in many communist and totalitarian countries if it were not for those groups speaking out not only would religion die but so would the human spirit. The difficulty for church groups and religions is that having the right to speak out is both a right and a responsibility.

In recent years Australia has had an influx of new religions, some of which have not been experienced here before, and unfortunately in many cases they have radical religious perspectives, as is seen through some of their more firebrand preachers. I will not name any particular religion or refugee or migrant group that might unfortunately have had one or two of these individuals within it. There is the odd bad egg in every community, whether it be the Anglo-Saxon community or any other.

I worry about untempered religious perspectives and the right of new religions to incite hatred of others. In a culture of tolerance and inclusion such as Australia's it is right and proper that we try to temper some of the more radical elements when it comes to what is preached from the pulpit, although only to a limited degree — I would not want to see that taken too far. In trying to come to terms with which church groups and religions you might temper the pulpit-bashing of, how do you pick winners? How do you pick which church should be exempted over another religion from this legislation? The answer is that you cannot and you do not. Therefore you stand by this legislation as being reflective of the morals and values we want all Australians to espouse and aspire to, whether they are recently arrived or have been here for a very long time.

To those who argue, 'My home is my castle, my home is my refuge, my home is sacred', I say it is interesting to look at where the Ku Klux Klan in the United States of America holds its regular meetings. They are not held in public halls or in the spotlight of the public arena. Ku Klux Klan meetings are held in private homes, up long driveways and under cover of darkness in the hope that young people can be incited to commit acts and atrocities that further the goals and aspirations of their elders in that unfortunate organisation that has been allowed to exist for too long. To those who argue, 'My home is my castle', I say in nearly every situation, 'So it should be, but not if it is used for the wrong purpose; not if it is used as a forum in which to propagate propaganda'. That is untenable in any free-thinking society based on inclusion rather than exclusion. On that basis I do not support excluding the family home. I would rather have it out in the open, where at least it can be seen for what it is.

To those colleagues who say that this does not happen in Australia, to those sceptics who say there is no need for this legislation, I urge them to get out and see what is going on around them. I urge them to do what I did for nine years, what on this side of the Parliament the honourable member for Forest Hill did before me and what the honourable member for Caulfield is now effectively doing, and what on the other side of the house the Minister assisting the Premier on Multicultural Affairs and other honourable members are also doing — getting out into the communities where these issues prevail.

That is not to say that our rural colleagues from the other parties and political persuasions are not doing the same in their areas. But based on my experience, I believe people from the many different non-English-speaking backgrounds who have chosen rural communities to be their home tend to assimilate much more quickly and become, shall we say, more Australianised — that is probably not the right expression — more reflective of the rural community in which they are living and often leave behind the multicultural connections of their past. I do not want to create a rural-versus-city argument, but the honourable members nodding their heads in agreement realise I have a point.

Come with me on a tour of Jewish synagogues to witness rabbis in St Kilda, Caulfield or Doncaster with

tears in their eyes as they escort you around the premises to look at the graffiti that is constantly carved and painted on their walls, such as 'Jewish scum', 'Jewish pigs' and Nazi slogans.

Come with me to a Muslim community that experienced the Gulf War being used as an excuse for certain Australians in schoolyards and places of work to vehemently attack Muslim families because of their religion rather than appreciating the fact that they have left behind another country to embrace Australia. The Gulf War caused some major issues, about which some people in certain quarters of this country should be ashamed.

Come with me to the homes of Chinese-Australian and Indian-Australian families who had lived in Australia for generations before Pauline Hanson hit her straps, became the flavour of the year in certain quarters, and for the first time caused junior members of those families to be bullied in the street by being called 'black bastards' and told they should go back home. That sort of abuse happens daily. As I said at the start of my contribution this evening, you have only to park your car on the front steps of Parliament House on Sunday mornings to witness it happening against tourists.

Our society is better than that. If we say it is interesting that Victoria is the last state in Australia to have this legislation, we have to ask why. I genuinely believe Victoria is the last state in Australia to have this legislation because it is has been the example to the others. Victoria has been able to educate young people to believe racism is repugnant and that religious perspectives should not only be tolerated but accepted and open for debate.

Unfortunately, we cannot rely on all the young generation to lead the way. We cannot rely on every Australian to do the right thing by the people who have embraced this country as their new home. We cannot rely on all Australians not to poke fun at someone because they wear a shawl over their head because of their religious beliefs rather than wearing it around their neck for beautification.

On that basis, if this legislation serves any purpose at all I hope it will be an educative one. I hope it will provide for those people who have experienced acts of racism, which I hope are repugnant to all Australians, some sort of safeguard when they leave their front doors in the morning or evening to go for a walk in their local neighbourhood. I hope they know this Parliament, this legislature, has moved to provide them with a shield, some form of protection, as small as it may be — some legal protection rather than bodyguards — so they can walk the streets without fear of retribution by virtue of the fact that they have adopted this country as their homeland.

This legislation should not be a cause for division. It upsets me greatly that despite the fact that this Parliament unanimously passed a motion against racism in 1996, when I woke up one morning recently and listened to the radio I heard you, Mr Acting Speaker, attacking one political party, the Liberal Party, for losing touch with its roots in supporting this legislation. I noted in your contribution tonight that you supported the Labor Party, as you always do, and attacked the conservative parties only publicly for whatever particular motive you may have. I say to you, Sir, that you of all people should be tolerant of other perspectives and realise that the Liberal Party has always been a broad church and a party of inclusion and that it has always believed in supporting minorities. That is the history of the Liberal Party, which I am very proud to represent, and it would bode well for the people who, like yourself, constantly criticise this party to understand its history and evolution. That is why we can have a debate like the one we had this morning — a debate that came from many different perspectives but ended in friendship rather than rancour. We were able to have that debate because the Liberal Party accepts the views of others. That to me is what being a Liberal is all about.

Mr KILGOUR (Shepparton) — I support the Leader of the National Party in opposing the Racial and Religious Tolerance Bill. Interestingly, the Premier in his second-reading speech stated:

> Victorians take considerable pride in the fact that people from these diverse backgrounds live together harmoniously in our community.

I inform everyone in this house that I live in a community in which more than 40 per cent of the people come from non-English-speaking backgrounds, and they are now living harmoniously in the Goulburn Valley. I feel terrible that the honourable member for Warrandyte had to put up with the sort of behaviour we saw on the steps of Parliament House, but if he thinks this legislation will stop that sort of thing from happening again he has another think coming. Those idiots are the same sorts of people who scream out racist remarks at an Aboriginal person playing football or at the soccer.

We have had them for years. Legislation such as the Racial and Religious Tolerance Bill will not stop that sort of thing. People in the Goulburn Valley are proud of the way the Greeks, Albanians, and Italians who came to the valley in the 1940s and 1950s live

harmoniously in one of the richest communities in Victoria. The people from those European countries who came to Shepparton to grow fruit and tomatoes became involved in business and the community and have made a worthwhile contribution to both.

After a discussion paper was put out the Labor Party wheeled in the spin doctor. In came the Minister assisting the Premier on Multicultural Affairs, who spoke to a group of people in Shepparton. About a week later I was asked to speak to them. I asked them what they thought about the minister's remarks, and many of them said, 'We don't know why he was here. He said the legislation is needed and that every day people are vilified over race and religion, but that does not happen in our community'.

These were people from the ethnic council, and they asked me what the legislation was all about. We went through it together, and I read some of the letters I had received from the local Catholic monsignor and others. At the end of the night those people, who came from Greece, Holland, Italy, Albania, the Philippines, Tonga, India, Iraq and China — there was also a man from the Ukraine, who has been a great member of the ethnic council — all said they did not believe the legislation was necessary.

That ethnic council was brilliantly headed by Vicki Mitzos, who is a multicultural commissioner and who leads the Shepparton ethnic community like no other ethnic community in Victoria. Vicki Mitzos has done a magnificent job in bringing people from many ethnic groups together to stop the hatred — and she has not needed legislation to do it.

Mr Pandazopoulos interjected.

Mr KILGOUR — You may have talked to Vicki Mitzos when you were there, but have a talk to her now and see what she says! I talked to members of the ethnic council, who agreed with me that, yes, we live in harmony in the Goulburn Valley and, no, we do not need this sort of legislation. People who vilify others on the ground of race or religion are not the sort of people who would take notice of legislation. They would not even know it exists! It will not matter whether Victoria has the legislation or not: what the honourable member for Warrandyte said will happen on the front steps will happen.

The correspondence that came to my office, which is in an electorate where 46 per cent of the constituents are from non-English-speaking backgrounds, is interesting. Ninety-five percent of the correspondence I received was not in favour of the legislation. I received more correspondence on this issue than I did when guns were taken away from people — and coming from country Victoria, that is saying something! I have never people so up in arms about a bill since the gun legislation, particularly in its original form.

It is said that members of Parliament should listen to the people. I have listened. I have sat with members of the ethnic council who represent all the groups with whom I work closely. Most of those people said, 'We do not live like that in the Goulburn Valley'. I am not saying that vilification and intolerance does not occur. I am not saying that a certain corner of the high school is not referred to as Wog Corner, or that you do not hear slurs, one nation against the other, when the Greeks play the Italians at soccer. It happens, it has always happened, and it always will happen, despite legislation that stops people from barracking in that way at the soccer or loudly talking to people in that way in the schoolyard. I do not believe that is needed in our society, and I do not support the bill.

It was interesting to read what the people who wrote to me thought about the legislation. One person said:

> This outrageously intolerant bill while seeking to limit the freedom of speech of the majority of people, gives through its exemptions for groups such as the arts, the media, science and academia the right to vilify with impunity the rest of the community. The community is already upset by the abuse of privilege enjoyed by the arts …

It goes on:

> This bill would uphold the accusations made by children, and the accusations of any other person who would seek to label another person or group as intolerant.
>
> This bill is more draconian than any other state's or federal legislation, and cannot be equated with the NSW legislation …

That was an interesting comment. Another person said:

> The revised racial and religious tolerance legislation —

that is, the revised bill, not the original bill —

> is still an unwarranted intrusion into the private lives of ordinary people and restricts freedom of speech.
>
> The problems currently affecting Oldham in Britain are a result of many years of this type of law, which leaves people little room to properly debate the issues affecting them for fear of being called racist.

Another person asks that I urge the government:

> … to abandon the Racial and Religious Vilification Bill. I am Indian by birth — and in skin colour and appearance — and I can affirm that Australia is the least racist country in the world. I have lived and worked on all five continents, and have found Australia to be the most tolerant.

…

> Please do not proceed with this legislation as it will destroy the harmony which has prevailed in Victoria — use the money instead to improve English language skills.

An interesting comment from the Australian Christian Churches that:

> … the Victorian government had incorrectly publicly stated that the Australian Christian Churches supported the legislation.

It goes on:

> The Australian Christian Churches opposes the proposed Racial and Religious Tolerance Bill because it poses a serious threat to freedom of speech …
>
> …
>
> The Australian Christian Churches aims to protect its members right to preach and to defend the right of Christians to express their views …

Another person says:

> We are shocked and disappointed that despite the fact that the overwhelming number of submissions opposed the racial and religious vilification paper …

Was the information paper put out by the government a sham? Was it a case of the government asking people to let it know what they felt about the legislation and then taking no notice of the opinions people submitted? It continues:

> … a bill has been drafted and is to be presented in Parliament. We are appalled that after publicising a discussion paper and calling for comment, the government has claimed that opposition to the bill is an 'organised campaign'.

The Presbyterian Church in Western Victoria said:

> We do, however, have grave reservations with respect to the proposed legislation as it impinges upon the constitutional rights of all Australians …

The final submission said:

> Whilst I feel the intention of this bill … appears to be to protect every Victorian from the possible abuse that could [be] levelled at them — by other individuals or groups within our society — due to their own personal views. I believe this comes down to each individual's point of view, moral conscience and perspective of their own freedom of speech and beliefs. Each of us has to make a choice — to live together in peace and harmony or discord.
>
> …
>
> … this bill is designed to create division, suspicion and will only encourage misrepresentation and a further breakdown and disintegration of our society.

A lot of the information I received came from people who have come to this country from other countries and have learned to live here in a harmonious way. Not one of them has said that at some time they have not been embarrassed by what has been said. The sort of information honourable members have been given tonight by the honourable member for Warrandyte probably happens regularly in many parts of Victoria.

However, in my 10 years as a member of Parliament I have not received any information about this from my area, which has a large population of people who came to Australia from other countries. We do not seem to have the problem in Shepparton and they do not see the need to bring in this legislation. We in Shepparton have had some problems with soccer. The Macedonians wanted to come up and fix up the local Italian soccer team. We contacted them and told them not to come to the Goulburn Valley to spread their racial hatred but to keep their racial problems in Melbourne. We were living well together and believe we can continue to do so.

In the limited time I have available I say only that I believe I should not support the legislation, particularly for the reasons covered by the Leader of the National Party — the issues of liability of employers, et cetera. I do not have any problem in opposing the legislation. I invite anybody to come to the Goulburn Valley and see how we live together harmoniously and have done for many years, without the need for this sort of legislation.

Mr PANDAZOPOULOS (Minister assisting the Premier on Multicultural Affairs) — This is an historic day in the Parliament, and I want to thank the Liberal Party for the way it has approached the bill. Although the government cannot support all of the opposition's amendments, this is a very different debate from where we started last December. It is good to see that after careful consideration at least the vast majority of honourable members will be able to broadly support this legislation.

The Labor Party came into government with a clear election commitment on this matter, and it was discussed during the election campaign. In a lot of the consultations on the bill people told government members that Labor had not told them about this, but the fact is it was clear in our policy and was raised during the election campaign — and we are on about delivering our election commitments.

Why did the government say it wanted to do this? It was not because of all the conspiracy groups out there. Many of the submissions against this legislation said, with their world conspiracy theories, that particular lobby groups and powerful world interest groups supported this legislation. The government wanted to

do this because it is a logical debate to have. This has been Labor's policy as a political party for a long time. The Ethnic Communities Council of Victoria is the peak ethnic community organisation in this state and this has been its policy for a long time; it has reaffirmed that time and again. In fact, it is a policy that has been supported by political parties across the board in all jurisdictions around Australia.

As has been said by some honourable members on the other side of the house, this is predominantly legislation which occurs everywhere else, and some of it started more than 10 years ago. Victoria is the last state to act. Why? Maybe we do see ourselves as the most tolerant, but that does not necessarily mean that all Victorians have the same opportunities as those of us who are not vilified. The reality is that this is as much needed in Victoria as it is in any other state. This has been reconfirmed by the process we have gone through in the past seven months. I am a stronger supporter of the need for this type of legislation after what I have seen in the past seven months. It has reaffirmed to me why we need it.

Mr Steggall interjected.

Mr PANDAZOPOULOS — I will go through some of those. Most honourable members spend time with people from many diverse religious and ethnic backgrounds and see the value of the contribution they make to our society — we appreciate, harness and encourage it — but not all Victorians have that opportunity because they do not mix in the same circles. Some people particularly oppose this view and others very actively oppose this view. A lot of people out there do not support multiculturalism, yet it has been supported across all political parties for many years. We still see in mainstream newspapers letters to the editor speaking against fundamental principles like multiculturalism. If there are people out there who are against multiculturalism they will predominantly be from the more extreme groups and will generally be against this bill.

Labor came to government to do this as an important part of strengthening multicultural communities. The bill is a stand-alone piece of legislation. It makes amendments to the Equal Opportunity Act 1995 and utilises the complaints handling and conciliation mechanisms provided under that act. The government deliberately did not do anything in the draft or final bill that is drastically different to what already exists in equal opportunity laws in Victoria, which have been around for a long time — they have been tried and tested.

The government received 5500 submissions on the bill, the majority of which were actually submissions against existing racial and religious discrimination laws. There was a high level of confusion in the community about the difference between discrimination and vilification. The submissions argued not so much against vilification as against having the discrimination laws, which have been longstanding laws in this Parliament and other jurisdictions. They have stood the test of time, as have vilification laws in other jurisdictions — laws of Labor governments, Liberal governments, and even National Party governments in Queensland. I am disappointed that the National Party in Victoria has not been able to do what its sister parties have done in other states and support this legislation — or at least when those parties were in government they did not change or water down the legislation.

The purpose of the legislation is to prohibit vilification of people on the grounds of race or religion and to offer a means of redress for victims of racial or religious vilification. It provides an avenue for victims of such vilification to obtain inexpensive and accessible civil redress. This process is the equal opportunity process, which has been tried and tested for so long in Victoria and other states. This is not a process about encouraging division or giving favouritism to some sectors of the community; it is about giving some members of the community rights that they have not had before, rights which other states provide to their citizens but which Victoria does not. It is about ensuring there is a process, although not a legalistic one, to resolve these issues in a non-threatening way. That is exactly what the Equal Opportunity Commission does now, and is exactly what it will do if cases of racial and religious vilification come before it.

The bill promotes conciliation, and that is exactly the way it has been designed. The associated education campaign is a fundamental part of that. The government will educate our community about the importance and value of diversity. I know the Premier will talk a bit more about that when he sums up the second-reading debate.

A lot of submissions said the government was breaching the Australian constitution. If that were the case it would have been tested in jurisdictions like New South Wales and Queensland, which introduced their legislation in 1991. This is not a breach of the constitution, it is about complying with Australia's international obligations and agreements. All the jurisdictions that have enacted similar types of legislation have done so because as a country we are signatories to the International Convention on the Elimination of All Forms of Racial Discrimination and

the International Covenant on Civil and Political Rights 1966. This bill will mean Victoria will have done what all other states have done — that is, contributed to meeting Australia's international obligations and commitments.

However, the bill prohibits extreme behaviour that denies the rights of Victorians of all racial backgrounds and religious beliefs to participate as equals in the community, and strikes a balance by ensuring that freedom of expression can be exercised.

The government is proposing the sort of legislation that exists in other states, with improvements based on the experiences of and advice from those states. Some people who have opposed the bill have said that ours is very different to the legislation in other jurisdictions. However, being the last state to do this we have had opportunity to learn from their experiences.

In drafting the bill the government sought advice from other jurisdictions and asked, 'How has your legislation worked in the last decade?', or in the last five years, as is the case in some states. We asked, 'What improvements would you see? Have there been reviews of your legislation by parliamentary committees or law reform committees?'. This bill is consistent with what exists in other states, but includes improvements based on their advice, to make sure it works in a more meaningful and effective way to provide the safeguards, checks and balances that have been a logical and not unreasonable part of the debate around freedom of speech. The government has gone through this process for seven months, and I have no doubt it has struck the right balance. It is protecting freedom of speech and providing protection against vilification, which has not been available to others.

Some say that the views of government members are draconian. The honourable member for Shepparton touched on that, based on some of the submissions that he had received. How can our views be draconian when they are consistent with what applies in other states and the government has acted on their advice to improve the situation? Many people who say that our views are draconian want to oppose our views in any case.

I turn to the consultation process, because the honourable member for Caulfield said the government did not consult properly. Government members started the process seven months ago, in early December. We travelled around the state and conducted various forums. Consultations took place with metropolitan, regional, ethnospecific, religious and indigenous communities. We deliberately set out to get out there, to be up front and to make ourselves available — not in the normal way that legislation is handled, certainly not in the usual way most governments deal with legislation — because we knew there would be issues with this legislation. Although we were confident because of the pre-existing laws in other states we still had to be out there, up front and able to talk directly to people about their issues of concern face to face, even though it might have meant challenging each other. It was a great environment. The forums provided an opportunity to meet both people who supported the legislation and those who opposed it, or who were confused and wanted to see what it was all about.

At a lot of those forums people of various persuasions sat together and listened to each other's points of view for the first time. In the end they may not have necessarily all agreed, but it was an important exercise. I saw some of the same people come to the meetings time and again — they were clearly people who were opposed to the proposal, but they nonetheless had a good opportunity to put forward their views, and I got to know quite a few of them. I saw some of those people in the Parliament earlier today — for example, supporters of One Nation, members of the Citizens Electoral Council and members of some religious groups. It was good that we could sit down, talk with and engage each other.

The government's strategy was deliberately designed to have us challenge ourselves as a community and force discussions about uncomfortable issues. It was also part of an education process. The government could have merely sought amendments to the Equal Opportunity Act and dressed it up as that. It could have spoken to the Liberal Party, who it suspected in the end would be supportive of this type of legislation, and tried to have the parties work it out among themselves. However, in the end there would still have been issues in the community, so it was important to be up front. Consequently the government received a much larger number of submissions than would otherwise have been the case, and there was no problem with that.

In these processes, as the opposition parties would recall from when they were in government, often you get more submissions from people who oppose rather than support issues. It is not uncommon at all. There have been arguments that the majority of the 5500 submissions were opposed to the bill. The people who support the bill say, 'We support it'. People end up doing their lobbying and making phone calls once they see where the political parties are going to end up on a given issue. About 1500 people attended the public consultations. Even though they were challenging to me, and I had all sorts of interesting experiences with people being aggressive toward me, some having a

personal go at me, I believe you should be able to talk to people about what you want to achieve. The result of that was a better outcome in what the government is presenting to the house.

Although I and the Labor Party were comfortable with the draft bill, we were prepared to make changes to allay genuine community concerns, and that is the type of bill the house has before it. Government members went out into the community, listened and said, 'Despite our pre-existing views, we are prepared to make those sorts of adjustments'. Two big changes were made. The first was to include exceptions for religious communities that had fears about their ability to evangelise. According to our legal advice there were no real issues in the draft bill, but they had issues and the government was prepared to look at those concerns. In consultations, religious communities of all persuasions indicated a preference that the government address those issues.

The government also made changes to the definition of criminal intent. The original draft was based on the New South Wales Law Reform Commission model, which has had criminal provisions for a long period. Because there was disquiet about it the government was prepared to concede the point, and in effect the bill has the same definition of criminal intent as has existed in New South Wales for over 10 years.

The government also accepted that the community wanted to see a clearer distinction between the civil process of the Equal Opportunity Commission and the criminal process, even though we were confident that what we had done initially was absolutely right.

I have written explaining the changes in the bill now before Parliament to all the 5500 people who wrote submissions to us, and we have received many positive responses, not only from the many groups that were supportive of the draft legislation, and let us not forget about them. Many of them are umbrella groups, groups that speak for many voices. On the other hand, the majority of submissions were from individuals. It is important, therefore, to give due weight to letters of unqualified or qualified support to the government's proposals from organisations such as the Australian Baha'i Community. The Adult Multicultural Education Service and the Australian Catholic University also sent submissions in support of the original draft. I will say this about a late letter received from the Catholic Church: the government encouraged formal submissions as part of the process. Even though we had discussions, no formal submissions were made but the late correspondence is part of that.

Recently a late letter of support was received from the Catholic Church. The government encouraged formal submissions as part of the formal consultation process, but there was further informal correspondence.

The Australian Greek Welfare Society, the Australian-Israeli Jewish Affairs Council, the Australian Muslim Public Affairs Commission and the B'nai B'rith Anti-Defamation Commission were all in support, and qualified support was received from the Baptist Union of Victoria. The City of Greater Bendigo, the City of Kingston, the Ethnic Communities Council, the Ecumenical Migration Centre, the Greek Orthodox Community of Melbourne and Victoria, the Inner-Western Region Migrant Resource Centre, the Islamic Council of Victoria, Moreland City Council, the North-Western Region Migrant Resource Centre, Southern Grampians Shire Council, the Anglican Diocese of Melbourne, the Catholic Education Office — which totally supported the original draft of the bill — the Law Institute of Victoria, the Uniting Church in Australia, the United Kingdom Settlers Association, the United Nations Association of Australia (Victorian Division), Victoria Legal Aid, Victoria University — Equity and Social Justice Branch, the Victorian Community Council against Violence, the Victorian Equal Opportunity Commission, the Victorian Trades Hall Council, Warrnambool City Council, the Western Young People's Independent Network, Yarra City Council and the Youth Affairs Council of Victoria — to name but a few — all supported the legislation. Each of those groups speaks for many voices. Let not their voices be undermined and not heard because they did not get every single one of their members to write about something that is already supported and exists in other jurisdictions.

Many of the submissions received included copies of hate mail and hate literature. Members of the government considered what to do with such submissions. Should we, in order to help the community and the media understand where we are coming from, make available some statements of hate against indigenous communities, Muslim or Jewish communities and other groups for distribution in the mainstream press? The government considered it should not do that. The government sees the full range of submissions made to it. As the honourable member for Warrandyte recalled from his time as a minister in a similar capacity, governments have the opportunity to see evidence of people's experience of vilification and understand the need for legislation of this kind. Governments understand why they have to stand up for some people.

The bill sends a message to those who think it is okay to vilify people because of who they are and what they believe in in terms of race or religion. This house must say, 'That is not appropriate' and send a message of support to people who are vilified, because they are the people who need recourse and government support. Governments need to be able to support those people, because it is members of government who see evidence of their experience.

Many honourable members have received a great many submissions of all sorts, many from interstate and overseas, from organisations such as Care Outreach in Queensland and the Christian Outreach Centre, also in Queensland. Other states already have such laws, yet they are telling us in Victoria what to do!

Of the 5500 submissions the government sent back, some produced letters of thanks. One, for example, was a letter of thanks to me saying that the paragraphs in my letter '… answered fully any possible query or concern which I had on first hearing of this bill'. Government members have received many letters like that. Once people were engaged in the debate, had thought the issues through and had things explained to them, even if they had previously sent submissions against the bill many subsequently came to support it.

The education process, however, does not end there. When the bill is passed the government will still have more work to do. Shortly the Premier will outline the education campaign, which does not start until 1 January, before which time it will all be rolled out.

The ACTING SPEAKER (Mr Savage) — Order! The honourable member's time has expired.

Mr DELAHUNTY (Wimmera) — I rise to join the debate on the Racial and Religious Tolerance Bill and say strongly at the outset that I believe there is no place in a healthy society for vilification of any class of people. I put that right up front in my presentation tonight.

The proposed legislation has three main purposes: to promote racial and religious tolerance; to provide a means of redress; and to make consequential amendments to the Equal Opportunity Act of 1995. During the consultation process that all honourable members have been through, we have spoken to many people, received many emails and letters and been involved in many discussions.

On 28 May, along with the Honourable Jeanette Powell, the National Party spokesperson on multicultural affairs in another place, I attended a briefing organised by the Department of Premier and Cabinet. We thank the department and officers in the area of multicultural affairs under the Minister assisting the Premier on Multicultural Affairs for the advice they gave us on that day.

I, like the Leader of the National Party and the honourable member for Shepparton, will oppose the bill, and I will now give some reasons for that. Most of the correspondence I have received on the matter — and I will touch on some of it later — encouraged me to oppose the bill. Secondly, the National Party believes the proposed legislation is very much open to interpretation and will therefore cause major implementation problems.

In addition, the National Party believes that people came to Australia from other cultures to escape draconian laws and lack of freedom of speech in their own countries. As outlined in the discussion paper, there are now people from over 200 different countries living in Australia. Another reason I am against the bill is that I do not believe this type of bill is proven to promote tolerance — and tolerance is, after all, what the government is trying to achieve.

The Minister assisting the Premier on Multicultural Affairs has stated tonight that all other states and territories of Australia already have racial and religious vilification laws. That may be true; each state or territory seems to have at least some small, relevant parts of equal opportunities acts and the like. The proposed Victorian legislation, however, will be much tougher and will go much further than legislation enacted in any other state. For that reason, I do not think the bill will have the effect the government intends.

I listened to the honourable member for Footscray's contribution to the debate. I think I am right in quoting him as saying that any person or group that is against this bill is a radical. I refer to some of the letters I have received from churches, whose members would not be considered radicals. The first is a three-page letter from the Horsham Church of Christ, which states:

> We wish to express our concern regarding a number of the proposals raised as a part of this bill and the changes to our social environment that will eventuate if the bill, in its current form, is enacted.

Its concerns about the bill include:

> It severely limits the individual's sense of freedom of speech, even within the confines of one's own home …
>
> It does not differentiate between deliberate acts of vilification and unintended offences caused through ignorance …

It prohibits religious groups from the honest expressions of their beliefs, when these are contrary to the beliefs of others …

It has the potential to be misused to harass and persecute people.

That is important.

It would foster an atmosphere in which people were frightened to express their views for fear of being misunderstood, misheard or misquoted …

It exempts the most public expressions of racial and religious vilification as these are presented in the arts, by intellectuals and in the media, so discriminating against the ordinary citizen …

It gives no clear definition of vilification.

I received another letter from the Presbyterian Church of Victoria. The Reverend Barry Oakes wrote a three-page letter on behalf of the parishes of Warrnambool, Hamilton, Portland, Koroit–Port Fairy, Camperdown–Terang and Noorat, saying:

We believe that the Victorian government's genuine concern over racial and religious intolerance is laudable, and we also oppose vilification upon biblical ethical grounds …

We do, however, have grave reservations with respect to the proposed legislation as it impinges upon the constitutional rights of all Australians, and indeed question the need to legislate in the first instance. We therefore write to bring our strong concerns over this proposal to your attention.

Honourable members would have read the article in today's *Herald Sun* that included a reference to a letter from Bishop Denis Hart — I think my leader read from a letter from the bishop — which said:

… the law was not justified.

'I am fearful that this legislation may end up being used to attack the religious freedom it seeks to protect'.

The article also reported Bishop Hart as hinting that:

… the bill could be used against priests who refused communion to groups such as the pro-gay Rainbow Sash Movement.

Are representatives of the Catholic Church radicals? Far from it. Finally, I quote from a letter from the Presbyterian Church of Benalla:

The presbytery of Benalla agrees that there is no place at all in a healthy society for the vilification of any class of people. However, it believes that the proposed bill is not the means of addressing expressions of social intolerance and abuse.

Specifically we oppose the ratification of this bill because …

Many reasons are given, and I will refer to a couple:

There is a better way to address alleged intolerance. Social prejudice and abuse is a matter of the heart …

This bill attacks the principle of freedom of speech and freedom of religion.

Again, the church letters I have referred to show that those people are far from radicals but are concerned citizens of their communities.

Honourable members are well aware of the draft bill put out for community consultation. Today 37 amendments have been proposed to the bill that was brought into the Parliament. After two goes there are still 37 amendments, from three different sources. How are we, as parliamentarians who work with our communities, expected to debate the bill when there are so many amendments to the second draft? That is all the more reason for the bill to be rejected at this stage.

The bill contains some contentious clauses. Clause 17 refers to the vicarious liability of employers and principals. That is a major source of contention in the community, especially among small businesses. Clause 19 includes a child as a complainant, and even a representative body on a child's behalf. Clause 21 provides that the commission must assist complainants. How can the commission be impartial when it has to assist complainants prior to their coming before it? The bill contains many contentious issues.

I know many honourable members who wish to speak on the bill have read the preamble, to which I will refer later. However, proposed section 11, which is headed 'Exceptions — public conduct', states that a person is exempt:

(a) in the performance, exhibition or distribution of an artistic work; or

(b) in the course of any statement, publication, discussion or debate made or held for —

(i) any genuine academic, artistic, religious or scientific purpose; or

(ii) any purpose that is in the public interest.

One question asked of me is: what if a person goes to a concert where an artist tells a joke that vilifies someone and he repeats it outside; will that person be charged where others are not? That is a major concern, and maybe the minister might take that on board when summing up.

I have referred to the fact that employers and principals can be vicariously liable. We do not believe that is fair to employers, who are under enough pressure as it is from Workcover premiums and other costs increased by this government. It will create another minefield for

employers. We are worried about small business people, for whom this is a major concern.

Proposed section 19(1)(c)(iii) states that if that person is a child, and at the briefing given by the minister's staff we were told that a child can be someone as young as eight:

> if the Commission is satisfied that the child or a parent of the child consents, any other person on the child's behalf —

may complain to the commission. The situation may arise where a child, without the approval of a parent but with the assistance of the commission or someone else, could make a complaint under this process. That is wrong, wrong, wrong! There are many aspects of the bill that are of concern.

I thank the honourable member for Mildura for making available the legal opinion he obtained. I will not go through the points it contains, but I found it interesting to read.

I will finish my contribution by reading from some of the other letters I have received. I have received letters from the Returned and Services League, but I will not refer to them. Berlinda Clarke from Balmoral wrote to say:

> I am appalled by racism, discrimination and hatred, and I believe this legislation, if passed, will enshrine these very things.

So she is against the bill. I received a letter from Prue Clark of Horsham, who stated:

> If passed the bill would make people with a strong belief in any one religion vulnerable to large fines and jail terms.
>
> …
>
> Our society is so free of political unrest. Please do not allow our state to be one of fear.

There is also a letter from Leeann Barber of Horsham:

> I do not see the need for more laws in our state to bring about tolerance for racial or religious reasons as I believe another law will not stop, hinder or reduce vilification as the heart of the individual or group has not changed and the law will actually escalate disturbances. People will not change their mouth, thought or actions by introducing more laws.
>
> …
>
> Why should the arts, theatre and science be exempt when they can and do offend individuals and groups who see their belief violate, blasphemed and ridiculed. Is this not a bias for an elite group?

There are many more. During my time with the Horsham City Council, Robert Atkins was a councillor for whom I had a lot of time. I point out that he is studying Japanese. I quote from his letter:

> The community that I live in —

that is, the Horsham–Wimmera community:

> has built up over time a religious and racially tolerant community without the need for these new criminal intrusions. After the Second World War many immigrants from all over the world settled here and work, run businesses and pray in the various churches provided. Never in my experience has there been any need for such an act because of the respect and tolerance shown to all who wish to live here.

I compliment the people of the Wimmera on their tolerance in working together.

> I read newspapers every day and also watch television news and I cannot recollect any outcry for these sorts of legislation, so why codify something in law that nobody needs or wants?

We received many such letters.

Last week I spoke at a Federation activity at Murtoa College, where I highlighted the fact that we are a multicultural society, which I think has made this a great country in which to live. As I said before, people from more than 200 nationalities live in Australia, and more than 160 languages are spoken here.

I want to refer to the influence of the multicultural society on the clothes we wear and particularly the food we eat, whether it be Chinese, Indian, Italian, Japanese or at Moe's restaurant in Horsham. I refer to the second-reading speech, in which the Premier states:

> Honourable members will be aware that Victoria is the most culturally diverse state in Australia.
>
> The people of Victoria come from many different ethnic backgrounds and indigenous cultures and observe many different religious faiths.
>
> Victorians take considerable pride in the fact people from these diverse backgrounds live together harmoniously in our community.
>
> This diversity has enriched Victoria.

I could not have said it better myself and the reality is that we have done that without this law. I have major concerns with the ramifications for the AFL code of vilification and the flow-on effect to those people who have been offended by this.

I do not believe the legislation is needed. There is no demonstrated need for it and it sends the wrong message. It does not serve its intended purpose, therefore, I oppose the bill.

Debate interrupted.

DISTINGUISHED VISITORS

The SPEAKER — Order! Before calling the next speaker it gives me great pleasure to welcome to the gallery this evening the Honourable Fred Riebeling, the Speaker of the Western Australian Parliament, who is accompanied by Mr Peter McHugh, the Clerk of the Legislative Assembly. They are both visiting the eastern seaboard states looking at parliamentary administration. Welcome gentlemen.

RACIAL AND RELIGIOUS TOLERANCE BILL

Second reading

Debate resumed.

Mr LIM (Clayton) — In making my contribution to the debate I would like to say at the outset that I have been very concerned that the bill might not get up without the support of the opposition. The opposition has now come out publicly to support the bill and I am delighted to be taking part in the discussion. The most eloquent contribution was from the honourable member for Warrandyte, which was most touching. It was his personal experience of racism right in front of our Parliament. By the same token, I express my great disappointment with the objections and lack of support from the National Party members. While some members of the house — —

The SPEAKER — Order! It is with reluctance that I interrupt the honourable member. The time being 10 o'clock I am required by sessional orders to interrupt the business of the house.

Sitting continued on motion of Mr PANDAZOPOULOS (Minister assisting the Premier on Multicultural Affairs).

Mr LIM (Clayton) — As I was saying, while some members of this house have demonstrated recalcitrance as far as the bill is concerned, I can assure them that racial and religious vilification is alive and well and that it hurts the community. It is intimidating; it is degrading; it is belittling; and it creates a sense of helplessness on the part of the victim. As someone from a non-Anglo background I have lived it during the last 31 years of my life in this country. As someone from a refugee community I know how it affects members of that community, especially those who have fallen victim to such a disgraceful monstrosity.

I cannot go through the long list of examples; honourable members have heard many examples already. One that I can never get over and that I shared with the house on the occasion of the rise of Hansonism in Canberra is the story of the Cambodian lady who once a week went to her temple. She was waiting in front of her house where there happened to be a bus stop when an Anglo person came out to spray his garden. Instead he sprayed her and shooed her away, telling her to go away and to take her religion back to where she had come from. That was so traumatic for her that she hid in the house for months before she dared go out again, because she did not know what to expect next.

It is important for all members to realise that what the government is trying to do with the bill is to see the end of such disgraceful behaviour. Imagine what would happen if something like that happened to an elderly Catholic or a member of the Anglican Church. The outrage would be unprecedented. It is important for the house to remember that.

The bill is significant in the sense that Victoria is playing catch-up. As the Premier mentioned in the second-reading speech, we are something like 10 years behind other states. As Victorians we should be hanging our heads in shame because we are supposed to be part of the most enlightened community in the whole of Australia. We are supposed to be at the forefront of compassion, tolerance, multiculturalism and race relations, yet we are just catching up. It has amazed and astounded me that members are reluctant to support such a progressive move on the part of the Bracks Labor government.

What is significant about the bill is that it is a much watered-down version of the original. It is substantially modified compared to the one that was put out for discussion and was subject to exhaustive and vigorous consultation. It was the subject of criticism by some vocal religious and community groups that believed it would impact on their so-called freedom of speech and religion and objected to its treatment of the issue of intent. The changed version that we see at the moment is the result of the government's positive response to the demand for change, indeed, the clamour for change. The numerous changes that have been made to the bill should make it more attractive to all concerned.

For example, the bill now includes an exception that previously limited it only to academic, scientific or artistic expression, as well as including religious and public matters.

Significantly, the amended version provides for proof of intent to vilify before criminal prosecution can proceed. This is important and addresses in a significant way the concerns expressed throughout the period of

consultation by those who object to the bill. More importantly, we should never overlook the fact that so far as community relationships are concerned the bill is about a power relationship between the abused and the abuser. It also empowers victims so they have something to protect themselves with and ensures that they will be treated with dignity. I commend the bill to the house and wish it a speedy passage.

Mr STEGGALL (Swan Hill) — I join this fascinating debate, during which most honourable members have been moving in a common direction. However, there are those of us who do not share that feeling of agreement and who look at this legislation through different eyes. I listened to the honourable member for Clayton talking about our playing catch-up. I wonder what we are catching up to, or to whom. Is it to other states with bits of paper that they have not utilised? Why are we doing this?

Mr Pandazopoulos interjected.

Mr STEGGALL — The minister in all his goodness has told us about how much he has learnt in the past seven months, yet when he was asked to produce evidence of that he dived off into other areas. Those of us who see this as more of a feel-good exercise have difficulties with the real meaning of the legislation.

An Honourable Member — The National Party doesn't agree with it.

Mr STEGGALL — You are not wrong. The honourable member for Footscray summed it up when he spoke about his Footscray meeting, where only some people who came from a long way away opposed it. From a long way away — —

Mr Nardella interjected.

Mr STEGGALL — I do not think Melton is a long way away. It is interesting to see what we are trying to do. Some people will see this bill as a threat, and others will see it as an opportunity. I appreciate that, and I would have hoped the government may have made its first attack on the subject through education and the work it is talking about doing.

According to the government, this is the first plank in its attack on racial and religious vilification. I am sorry the government had to lead off with legislation, because in many of our areas it will not achieve what the government wants. It may achieve it in Melbourne, and I hope for the government's sake it does. However, there are other areas where this will not be successful or popular and where it is not wanted. In the country we rely on immigration because we cannot get people to come from Melbourne to take up the workload and fill the jobs that are available. Looking at a couple of my communities, the best example would be Robinvale — —

Mr Brumby interjected.

Mr STEGGALL — The Treasurer is right. I would get to Robinvale! It is an interesting and exciting place that in the past five years has had a huge influx of people from Tonga and Vietnam. In addition, it has large Italian and Aboriginal communities. To say it is not a vigorous community would be to understate it a bit. It is a vigorous community that has to find its own way through — and it does so. There are lots of pressures on racial and religious areas, and they are being resolved — slowly. This legislation will not be at all helpful.

As employers attract more people to country areas, where they are needed to fill jobs and learn skills they need, many will come from Melbourne's ethnic communities, because no-one else will come. As I said, the arguments are vigorous and strong, but the communities are working together. I do not like the concept of having a piece of legislation that will enable people to put up barriers in front of others, particularly as they are employed and introduced into communities in rural areas.

Why do we need this legislation? There has not been any real argument for it. I heard an interesting contribution from the honourable member for Warrandyte, who to support his argument used the abuse thrown at some Japanese tourists on the front steps of the Parliament.

I have been on the front steps of Parliament quite often, and I can assure honourable members it does not happen often, but he was there when it did.

Mr Hamilton interjected.

Mr STEGGALL — I have been abused! I came from the shearing sheds of Australia — I thought that was the way we lived!

To use the argument of the honourable member for Warrandyte for introducing the proposed law is a little bit steep. I would have thought that the actions of those people on that day towards those tourist groups was against the laws of this nation as they stand today. Many of the other examples that have been raised tonight are against the laws that we already have.

As parliamentarians we need to be very careful that we do not create legislation that will sit on the books or threaten people and not achieve the aims we want. I do not believe we will achieve by legislation what has been talked about in the debate. I do not believe that a society will do it by legislation. I believe we will do it in this country as we have over the past 50 years. Since immigrants came here at the end of the Second World War, we have worked through our communities and our society to create the Australia that today attracts people from every nook and cranny of the world. You cannot tell me this is not a good place to live or that people are not very keen to get here and enjoy the quality of life and standard of living we have. They are coming here in droves and are very keen to do so. Please do not take the vigour away from our nation. We are told that we have people here from 208 countries. I imagine that is a pretty good indication of what we have.

The proposed legislation is based on the Equal Opportunity Act, which is not used much in country areas. Now Parliament is going to introduce the concept of vilification on religious and racial grounds and use that to try to impose its will on people. As the minister will be aware, the big test is how penalties are handled — that is, how will society accept the penalties that the bill provides can be imposed on employers and individuals? Do honourable members really think that by imposing such penalties the problem will be solved?

The government is on the right track when it talks about the bill being the first plank of many other things and says that education will be paramount. I am told that sometime tonight the Premier will tell us about the education plans of the government. I will be very pleased to hear them, because I would have thought that was probably a very good starting point for our society.

Mr Pandazopoulos interjected.

Mr STEGGALL — So is the minister saying we are using penalties to drive education home? Is that how his mind works?

Mr Pandazopoulos interjected.

Mr STEGGALL — The minister did not come near my electorate in the seven months of discussion! I think he would find that an education program would be a lot better and far more acceptable to people in attempting to achieve exactly what is aimed at.

The churches all have different opinions. They are not always the best people to seek opinions from on such matters and it is interesting to see what a confused range of opinions are coming from them.

Our society is basically very tolerant and good. This is not a bad country! We are not bad people! We do have a few pressures on us from time to time, but I ask honourable members not to think we must run away and use penalties, jail sentences and all the rest of the things that are provided for in the bill to impose its objectives.

Mr Maclellan interjected.

Mr STEGGALL — No, the Garden of Eden was actually at Lake Boga!

Different people and different communities see the bill in different ways. The legislation is not sought or wanted in the Swan Hill electorate, where there has been a lot of discussion. As the honourable member for Shepparton mentioned earlier, honourable members have probably had more correspondence on the bill than on any other legislation of recent times. I am sorry it has been introduced. I believe the threat the legislation will represent to those in a lot of areas will act against the outcome we are trying to achieve as a society.

The National Party is not supporting the bill. I trust that as the Parliament discusses the bill people will accept that some of us are from places other than just Melbourne and do not share the sentiments expressed in the bill.

Mr KOTSIRAS (Bulleen) — It is a pleasure to speak on the Racial and Religious Tolerance Bill. Today I am very proud to be a member of the Liberal Party because we have freedom of choice and freedom of speech, unlike those on the other side, who are gagged and have to follow the minister.

I also put on record the good work done by the honourable member for Caulfield, who is the shadow Minister for Multicultural Affairs, and an honourable member for Templestowe Province. Due to their hard work I have decided to support the bill and the amendments that will be moved by the honourable member for Caulfield.

When I attended secondary school in the northern suburbs I, too, was abused, vilified, threatened and at times bashed. I suppose some members on the other side and some public servants might think I deserved it, but although it was difficult I considered freedom of speech to be very important. It is something that we strive for and I would hate to see something that would hinder it.

The bill does not inhibit freedom of speech. Its purposes include:

> … to promote racial and religious tolerance by prohibiting the vilification of persons on the ground of race or religious belief or activity …

The purposes of the bill are good and I commend them, but the government has failed. It has handled the bill appallingly. It has divided and caused fear in the community. It shows that the Premier, who is also the Minister for Multicultural Affairs, is not up to that job, and I suggest that the minister who assists him on multicultural affairs should perhaps take it over.

Honourable members interjecting.

Mr KOTSIRAS — The Premier is very uncomfortable with the portfolio and he should pass it over to the minister assisting him on multicultural affairs.

Back in 1990, the Kirner government set up a committee to consider the subject of such a bill. The chairman of that committee was Demetri Dollis, the then member for Richmond. It came up with four recommendations. As a result of those four recommendations the government at the time brought in a bill, the purpose of which was to render unlawful certain acts or statements that vilified or threatened people on the grounds of race or religion, to empower the Magistrates Court to make an order prohibiting a person from harassing another person on the grounds of that other person's race or religion, and to empower municipal councils to remove certain material from public display.

Unfortunately the Labor government at the time did not have the courage to go through with its bill. It introduced it in the upper house, but because the state election was coming up decided not to go through with it, and it remained on the table.

Honourable members interjecting.

Mr KOTSIRAS — Yes, we were in government for seven years, but the big difference is that we had a strong Premier, unlike this weak and incompetent Premier.

The former Premier was tolerant and powerful. He was proactive. He chased Pauline Hanson and was a supporter of multiculturalism, whereas this Premier is very uncomfortable with it. I always hear the Minister assisting the Premier on Multicultural Affairs talking about the fact that in Victoria there is a bipartisan approach in this area, but it is only when it suits the government. When there is a test, it fails.

The Honourable Carlo Furletti, a member for Templestowe Province in the other place, wrote to the Minister assisting the Premier on Multicultural Affairs asking him for a briefing, but what did the minister say? He said the following:

> Thank you for your letter of 10 April 2001, in which you requested a meeting between yourself, Mrs Helen Shardey MP and Mr Nicholas Kotsiras MP, with the newly appointed Director of the Victorian Office of Multicultural Affairs …
>
> I am pleased to advise you that the courtesy of a briefing is extended to Mrs Helen Shardey, shadow Minister for Multicultural Affairs, to meet with Ms Jensen … adviser will also be present.

In other words, the government rejected both Mr Furletti and me — and government members talk about bipartisanship and being open and accountable! What are they afraid of?

The Labor Party went to the election promising the introduction of legislation with education strategies to combat racial vilification. There was no mention of religious vilification, so the minister is misleading many people. When Labor came into government it decided to introduce this bill during the spring session of 2000. That session has come and gone, so either the Victorian Office of Multicultural Affairs (VOMA) was incompetent or the minister was incompetent, because you cannot promise something and not deliver it.

As if that were not bad enough, because the government could not cope with the work it employed a consultant and paid him $35 200 for one month, which is almost $1700 a day of taxpayers' money, to tell it what to include in the bill — that is, $1700 a day to do the work that VOMA is meant to do. What did Sweeney Research find? First of all, the research was conducted in Ballarat and Colac and the results are very interesting. On page 5 the report states:

> In the city there was no reluctance whatsoever to accept governmental proactivity in introducing some form of legislation … but most believed that down the track this might become a minefield … Most anticipate huge difficulties based on the variables outlined above; not the least of which being the circumstances and the intent.
>
> …
>
> … If this goes some of the way towards eradicating intolerance, bigotry, discrimination, then they are all for it. However at the same time they are united in the belief that the problem has to be tackled within the breeding grounds: in the home; in schools. And that, and ultimately the battle has to be fought aggressively within the workplace 'Because that is where most people spend the majority of their waking hours'.

The government then decided it would have a consultation process. Wasn't that an absolute farce! It organised meetings in different parts of Victoria, and the feedback I have received shows that the minister

was not prepared to listen. A letter to the editor in the *Bendigo Advertiser* states:

> Sir, the so-called consultation regarding the racial and religious tolerance legislation hosted by the Honourable J. Pandazopoulos held in Bendigo recently had the appearance of a total farce.

Another article under the heading 'Racial bill has set alarm bells ringing', this time in the Ballarat *Courier*, states:

> More information please! The wider community has every right to seek answers on just what the likely scope and impact of the controversial racial and religious vilification bill will be.

A letter to the editor in the same paper states:

> … the overwhelming majority of the 130 or so people there were vehemently opposed to the legislation. When asked whether he would therefore be advising the government that the legislation be dropped, Mr Geoffrey Howard, MLA responded that he could not do so as he was not certain that the meeting was representative of Ballarat opinion as a whole. Why bother to arrange the meeting in the first place?

The honourable member was obviously gagged. I sent in a freedom of information request asking for all documents relating to this bill. I received a response saying:

> Access was denied to 7 documents in full and 15 documents in part.

Again I ask the minister what he has to hide. If he is so confident about this, why can't he be open and accountable as Labor promised? I asked the Premier a question on notice:

> (a) What was the total number of submissions, letters and emails received? (b) What proportion supported the model bill? (c) What proportion opposed the bill, and (d) what proportion sought amendment of the bill in order to give it support?

The answer was:

> The Victorian Office of Multicultural Affairs received in excess of 5000 written submissions.
>
> To provide an answer as to what proportion supported the model bill, what proportion opposed the bill and what proportion indicated support only if the proposed bill was amended would require an inordinate amount of time and resources that are not available.

You cannot tell me the Premier has not received a brief from VOMA advising him how many submissions were in support of the bill! I hope the Premier is not misleading the house with his answer.

I now turn to the bill. I need to ask the minister what he means by the words 'lawful religious'. In addition, clause 4(c) states that an object of the bill is:

> To promote conciliation and resolve tensions between persons who (as a result of their ignorance of the attributes of others and the effect their conduct might have on others) …

Does that mean that if you are not ignorant in what you do, you will not be held liable?

What is the definition of 'incite'? At the briefing it was explained that 'incite' requires the words or acts to affect Y's feelings about the person or group referred to by X. It was said that as an evidential matter it would be of assistance to demonstrate that Y had acted on his aroused hatred — for example, Y might state his feelings are, 'I hate B', and an act of violence is not required to establish that. That means that you do not have to go out and do something so long as someone can prove that you were incited to do some violence or to threaten an individual.

Clause 12 covers exceptions for private conduct. Subclause (2) says subclause (1) does not apply, so I cannot understand why it has been introduced. In other words, if you are in your own home, the window is open and someone walks past, you are liable for what you say.

I ask the minister to look carefully at the amendments to be moved by the honourable member for Caulfield, because they make sense.

I support the bill. However, the government has failed the Victorian community. It has divided the community because it has shown to be incompetent in introducing this bill. I am disappointed in this Labor government.

Mr MAUGHAN (Rodney) — I oppose the bill. The Leader of the National Party has spelled out why, but I will make a few brief comments on why I am opposed to it.

I start by saying that Australia is a very tolerant society. About one-third of Australians are foreign born, and something like 50 per cent of all the people in Australia have one or more foreign-born parents or come from overseas. The honourable member for Shepparton in his contribution spelt out what a wonderful multicultural society we have, and certainly that applies in the Goulburn Valley. This country is home to people of all colours, creeds, races and religions. It does not have the problems seen in other parts of the world, particularly the Middle East, Ireland, Yugoslavia, Africa and other trouble spots.

I acknowledge that our Aboriginal people have been badly treated in the past and I believe that as a community we are determined to make amends. The disadvantage is being addressed and we are doing something to help the Aboriginal people with their problems. It is important that all people, whatever their class, creed and background, are treated as equals. Some would say that we have gone too far in that endeavour. Some would say it is a two-way street. I acknowledge that some people are racist, but this legislation is not going to do one thing to overcome that racism.

The honourable member for Caulfield in her contribution spelt out the solution to the problem, which is more education and understanding. The bill is far more likely to create division. It is unnecessary; it is loosely drafted, vague and imprecise, and it will create far more problems than it aims to resolve. It is not called for, it is not needed and it should be thrown out.

All honourable members would agree that racial and religious intolerance or any form of intolerance should not be condoned, encouraged or tolerated. It certainly should not be supported, and wherever it exists it should be overcome by education in the home, in schools, in the community and by example rather than by legislation. The honourable member for Caulfield spelt out the way that could be done.

It has already been pointed out that the legislation is far more draconian than that in any other state: it has been rarely used in other states. I concede it has been used in some cases, but rarely. It goes much further in terms of penalties and so on than the legislation in other states. There are already means to deal with discrimination and vilification. This is an unnecessary duplication that will create more divisions than it heals.

There is no widespread support for the bill. My office has been inundated with letters, emails and phone calls in opposition to it. I have had some letters supporting it, but there have been very few. I would suggest that of all the mail, emails and telephone calls that I have received, much less than 10 per cent show any support for the legislation. People in my electorate are strongly against the proposed legislation being debated tonight. There is no widespread support because there are already means to deal with discrimination and vilification, including the Crimes Act, the Summary Offences Act and the equal opportunity legislation.

Australia prides itself on its support and encouragement of the principle of free speech. People come from other parts of the world to enjoy the privileges that we take for granted. We are known around the world as a country that encourages free speech, and vilification and intolerance are not tolerated by the community. I acknowledge it exists in a small number of cases, just the same as a whole range of other things that we do not approve of, but it cannot be made to disappear by this draconian legislation.

In his contribution the Leader of the National Party outlined very clearly why the National Party opposes the bill. The honourable member for Footscray said the Leader of the National Party was nitpicking. It is a lot of rubbish to talk about nitpicking. The Leader of the National Party referred to some of the definitions in the bill, and you could drive a truck through some of them because they are so loose and imprecise. They are not at all clear. It is a lawyers picnic.

Clause 7 states that a person must not:

> … engage in conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of …

What does ‘severe ridicule’ mean? How precise is that? Lawyers would have a wonderful time with that phrase.

An honourable member interjected.

Mr MAUGHAN — I agree. If someone is ridiculing you, you would be hurt, and I acknowledge that, but trying to define what severe ridicule is will be a lawyers picnic. The same applies to clause 8.

Clause 11 states:

> A person does not contravene section 7 or 8 if the person establishes that the person’s conduct was engaged in reasonably and in good faith —
>
> (a) in the performance, exhibition or distribution of an artistic work; or
>
> (b) in the course of any statement, publication, discussion or debate made or held for —
>
> (i) any genuine academic, artistic, religious or scientific purpose;…

That part of the legislation is intolerable. Artists, academics, and a selected group in the community are being given carte blanche to say and do whatever they want. They are exempted, yet the ordinary person in the street cannot make those comments without being in danger of being charged under this legislation.

I turn to clause 21, which states that the commission must assist complainants. How independent is a commission that before adjudicating on whether there is a case to be heard must assist in formulating the complainant’s case? If that is not discrimination against the person who is the subject of the complaint, I do not

know what is. Clause 24 refers to a penalty of six months imprisonment or a fine of $6000, which is way beyond what is reasonable. As was said earlier in the debate, it is using a sledgehammer to crack a nut.

People such as those in the Uniting Church are arguing in support of this legislation. I agree with the general principles put forward by the church, including the need to recognise that vilification exists. The church says vilification attacks one's psychological wellbeing, sense of belonging and sense of security, and I agree with that, but I differ with it on how we should go about resolving the problem. I repeat that the problem can be resolved by setting good examples and by education rather than by legislation.

In the interests of time I will not speak for much longer, except to refer to a few quotes. Dr I. C. F. Spry, QC, says this about the definitions:

> It is extraordinarily unclear and uncertain in its operation, and often no-one will know whether it applies or not.
>
> For example, if an individual (or his employee) refers to the religion or race of a particular person or class of persons and 'a reasonable person would believe' the reference is 'likely' to 'seriously offend', that particular person or class of persons —

can suffer the penalties. He goes on to talk about the definitions of the terms 'likely', 'seriously offended', 'reasonable person' and so on. As I said earlier, the definitions are so vague you could drive a truck through them.

A letter from Mr Peter Condos states:

> I was born in Egypt of Greek parents. I have seen this country mature in a positive manner over 40 years without undue recourse to legislation. But it is still maturing; we should be fostering the free expression of opinion and belief and the tolerance that goes with it …

One of my constituents, Mr Bruce Mitchell of Kyabram, refers in a rather lengthy letter to the exclusion from the bill of artistic works like *Piss Christ* and *Corpus Christi*, which for many people in the Christian church are offensive — yet they are allowed under the bill. As he says:

> To exempt the abovementioned activities, paintings, plays, writings, etc. from the legislation is grossly unjust and is a display of double standards. This is discrimination.

It is reverse discrimination. The Clerk of the Presbytery of Benalla states:

> The Presbytery of Benalla agrees that there is no place at all in a healthy society for the vilification of any class of people. However, it believes that the proposed bill is not the means of addressing expressions of social intolerance and abuse.

The Australian Christian Churches, a coalition of Pentecostal churches with attendances second only to the Roman Catholic Church, states:

> The Australian Christian Churches opposes the proposed Racial and Religious Tolerance Bill because it poses a serious threat to freedom of speech …

An overwhelming number of individuals and organisations are opposed to the bill, including Liberty Victoria, Free Speech Victoria, Archbishop George Pell, Bishop Denis Hart, the Presbyterian Church of Victoria, the Victoria Police and so on.

The National Party is also opposed to the bill, because there is no demonstrated need or widespread demand for it. The bill will restrict rather than enhance freedoms — and it is not possible for legislation to make people good, moral, ethical or tolerant. We should not restrict or inhibit free speech. People should be free to proclaim their faiths, beliefs and principles without fear of retribution or criminal penalties.

Ms Davies interjected.

Mr MAUGHAN — A little premature! Racial and religious intolerance can be overcome only by better understanding, education and providing good examples in schools, in homes and in the community.

Mr SMITH (Glen Waverley) — If a government were setting out to try to divide the community, it could not do better than this government in introducing the Racial and Religious Tolerance Bill. Everyone in this house — —

Mr Nardella interjected.

Mr SMITH — Everyone in this house, including that clown on the other side, is against intolerance, and everyone agrees with the principles contained in the bill. However, no-one could possibly imagine a government could address the problem so badly. This government has not brought the community along with it. Instead it has tried to create division — whether in ethnic communities or among the churches.

The bill was brought into the house in its current form two weeks ago. Bishop Hart is quoted in an article in today's *Herald Sun* as saying he told the Premier in a letter that he was disappointed the church was not given more time to comment on the revised bill that was introduced into Parliament.

Mr Pandazopoulos interjected.

Mr SMITH — This minister is like a parrot, trying to be divisive. He interrupts on the valid point that

Bishop Hart has publicly said to the Premier that not enough time has been given, which is typical of the remarks coming in to electorate offices. Earlier speakers have referred to the amount of correspondence they have received. I have never seen as many comments, particularly by email. All the correspondence and comments have gone 5 to 1 against the legislation. The government has brought divisiveness to the community. Everyone wants a tolerant community, and in the main we have one. The government must reassure the community by every means possible that the bill will not lead to the draconian measures that so many people predict.

I wish that legislation could be drafted to sensibly stop racial vilification and intolerance. I wish it were possible to draft legislation to stop actions such as those we saw on television some months ago when Palestinians marched through the streets burning the Jewish flag, but it is not. It is up to politicians and church and community leaders to set examples that imbue the community with the Australianism we have always enjoyed. I hope we can maintain the tolerant situation we have always known of the freedom of speech fought for by the diggers and which made Australia the attractive country to which people came to settle from all parts of the world. If that were the aim of the government we may get somewhere.

The divisiveness the government has imbued in the community as a result of this badly handled legislation is why there are divisions in this place tonight and why people feel so strongly about the issue. The bill is ineffective legislation. Perhaps at the end of the day it will be a beacon for society to say that at least we are trying to do something. If this incompetent minister had done his job properly in the first place rather than being the parrot that he is we may have had something worthwhile. With bad mannered parrots such as the minister it is no wonder there is the divisiveness we have seen throughout the debate tonight.

The ACTING SPEAKER (Mr Phillips) — Order! Before I call the next speaker, who will be the honourable member for Gippsland West, I will explain that there is some confusion about the call because there is a mixture of arguments both for and against coming from opposition benches. That makes it difficult for the Chair to acknowledge the protocol of the order of speakers being from one side or the other.

To save any further confusion and heartache I quote standing order 89, which states:

> When two or more members rise to speak, the Chair calls upon the member who first rose in his or her place.

One must then go to page 373 of *May*, which states:

> When two or more members rise to speak the Speaker has complete discretion over whom to call, though he will generally call alternately backbench members from either side of the house (or, when the subject of debate is not a matter of party politics, from those he adjudges to be supporters or opponents of the question).

To assist the Chair, may I suggest that honourable members acknowledge when rising to their feet whether they are speaking for or against the bill. That will create less heartache for the Chair in trying to acknowledge people speaking for or against.

Another option the Chair may take is to ask honourable members whether they are speaking for or against the question before acknowledging the member. If they receive the call, I suggest that all honourable members assist the Chair by acknowledging whether they are speaking for or against the motion. In the event of the Chair being in doubt, *May* refers to him calling members from those whom he adjudges to be supporters or opponents of the motion.

Mrs Shardey — On a point of order, Mr Acting Speaker, I wish to ensure that, regardless of whether they speak for or against the bill, honourable members do not feel constrained in their presentation and if they are speaking for the bill that they still be allowed to express their concerns. That is important because not all honourable members who are expressing concerns about the bill will speak against it.

The ACTING SPEAKER (Mr Phillips) — Order! There is no point of order. However, in acknowledging the point of clarification, the Chair has already indicated that honourable members should know themselves whether they will speak for or against the motion. In the event of the Chair not being able to immediately determine a member's position regardless of party politics, the question can be asked by the Chair whether the member is speaking for or against the motion. In the event that the call is then out of order the Chair does not have to acknowledge the member on his or her feet.

Ms DAVIES (Gippsland West) — I support the Racial and Religious Tolerance Bill. I will be asking honourable members to support the amendments I have tabled, which are aimed at reducing some of the fears expressed about the bill, particularly the potential for prosecution when serious criminal intent or offences are allegedly committed.

Later I will discuss the amendments tabled by the honourable member for Mildura and the opposition. I

feel able to support some of those amendments but not others.

Firstly, I commend the government on the process it followed in bringing the legislation forward. There was a clear understanding that legislation of this type would arouse considerable passion and interest and a range of opinions in the community.

Instead of the very first view of the nitty-gritty of this legislation being when it was tabled in the house, which is what normally happens, the government first put out a discussion paper. That discussion paper contained the draft legislation, questions, comments and invitations to members of the public and interested groups to comment on that draft legislation and comment they did, in depth and at some length. As a consequence of that input from members of the public, the Independents, the opposition and, one would assume, members of the government, amendments were made to the draft legislation. Many of those amendments addressed the concerns raised during that consultation/discussion period. The aims of the legislation were clarified and the intent and practice of it were tightened up quite considerably.

I regard that as a very valuable model for introducing significant and potentially controversial legislation to people in the community. It allowed for very real community input, and I commend the government for that. A point should be noted by some of those who took the opportunity to comment on the draft bill: some of the communication I received, as did most other members, could only be termed vicious and derogatory. Much of it included comments that the government was being undemocratic. I repeat, the manner in which the government chose to introduce this legislation to the Victorian people in their Parliament was highly democratic and made a demonstrable effort to meet the concerns expressed by some groups in the community. Some of the particularly vicious submissions I received would have to be regarded as counterproductive.

The objectives of the legislation state that:

> The Racial and Religious Tolerance Bill aims to prevent racial and religious vilification damaging the cohesion and harmony of Victoria's culturally diverse community. In common with the laws of all the other Australian states, the Australian Capital Territory and the commonwealth, the bill will prohibit racial vilification. Religious vilification will also be prohibited.

The preamble to the bill gives more detail about the intent of the legislation and says:

> The Parliament recognises that freedom of expression is an essential component of a democratic society and that this freedom should be limited only to the extent that can be justified by an open and democratic society. The right of all citizens to participate equally in society is also an important value of a democratic society.

I accept that as a state Victoria by and large has a commendable record of harmonious community relations, but to me that does not mean that there is no problem. I have absolutely no doubt that there are people in our community who at times are made to feel rejected, unwanted and even hated by often unthinking acts of verbal cruelty by others. Sometimes this abusive behaviour is expressed in racial or religious terms. Sometimes it is systemic and ongoing and even institutionalised. Sometimes it is random and sporadic, and perhaps this can be regarded as even more damaging to people because it can jump up and hit you when you are least prepared and least expect it.

Just as I have no doubt that some people experience that vilification, I have no doubt that we should do everything possible to minimise, reduce and, I hope, eliminate it. This legislation will not be the whole of that 'everything possible' but it can be, and I hope it will be, a very useful tool in that direction.

I was very pleased that changes were made between the stage of the discussion paper and the legislation we are debating in the house. One change that I see as very positive is that we have two very clear levels of responses to racial vilification. At the first level, the civil offence, the focus is very much on not criminalising that behaviour but conciliating, arbitrating and negotiating agreeable outcomes through the Equal Opportunity Commission. It is a similar process to the one we follow now when those who wish to make complaints on the basis of gender, disability or age discrimination are able to do so and have those complaints assessed and dealt with through a fairly simple and easy-to-manage process. Victorians are used to this process in the Equal Opportunity Commission, and I think they will find it relatively easy to adapt to it taking on this extra dimension of dealing with racial and religious vilification.

The second level of offence is for much more serious events, and there is an allowance in this bill for criminal prosecution in the most serious and damaging cases of racial vilification. I have asked the house to raise the bar quite high before this kind of prosecution takes place. The amendments I have circulated are to clauses 24 and 25 in part 4 of the bill, which describes serious vilification offences. Clause 24 deals with the offence of serious racial vilification. Clause 25 deals with the offence of serious religious vilification. The amendments seek to insert an additional subclause into each of these clauses which would require that:

> A prosecution for an offence against subsection (1) or (2) —

subsections (1) and (2) describe the offences of racial and religious vilification —

> must not be commenced without the written consent of the Director of Public Prosecutions.

I do not ever want to see prosecution for the criminal offence of racial vilification take place without very high-level consideration of the need for it. I very much wish to see that the main emphasis in the way in which people deal with this legislation is through the Equal Opportunity Commission, conciliation and negotiation. That is why I believe we need to ensure that prosecution happens only with the written consent of someone in such a high-level position as that of the Director of Public Prosecutions.

I have received letters that have been very fearful of the possibility of prosecution under this legislation. I will quote from one of them:

> To vote for this bill is to take away our fundamental rights. It will actively set races and religions against each other. If a person does not like what another person is saying he may then freely report him in to the authorities and he will be fined and sent to prison.

That is an overexaggerated suggestion of the possibilities available under this legislation, but I hope the amendment I have proposed will help ease some of the fears that have been expressed.

Other changes made between the discussion-paper stage and the introduction of the legislation include the clarification of the issue of intent. The discussion paper talked about the concept of a reasonable observer finding that communication incited vilification. The legislation now states that before criminal prosecution can take place an intent to vilify must be established. I see that as a positive change. Before any criminal prosecution takes place in our society intent and motive must be a part of the case.

The bill refers to unlawful racial and religious vilification. Again, I quote from clause 7(1), which states:

> A person must not, on the ground of the race of another person or …

I now quote from clause 8(1):

> … on the ground of the religious belief or activity of another person or class of persons, engage in conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of, that other person or class of persons.

I do not find those terms ambiguous at all. Most of us know when somebody is inciting hatred, revulsion, contempt or severe ridicule. Most of us have a clear understanding of when somebody is intending to make somebody else feel bad or when they are intending to hurt somebody else.

The exceptions to public conduct being regarded as unlawful vilification are provided in clause 11:

> A person does not contravene section 7 or 8 if the person establishes that the person's conduct was engaged in reasonably and in good faith —
>
> (a) in the performance, exhibition or distribution of an artistic work; or
>
> (b) in the course of any statement, publication, discussion or debate made or held for —
>
> (i) any genuine academic, artistic, religious or scientific purpose; or
>
> (ii) any purpose that is in the public interest; or
>
> (c) in making or publishing a fair and accurate report of any event or matter of public interest.

They are fairly wide exceptions. Much has been said by those who oppose it about the bill reducing freedom of speech. I believe that people who engage in freedom of speech in good faith and in a fashion that is reasonable, fair and accurate will not find themselves in any way hampered by the bill. I describe the bill more as reducing people's freedom to hurt and damage other groups or individuals. I repeat: I believe this legislation, including the exceptions it lists, clearly suggests that people who conduct themselves reasonably and in good faith have nothing to fear.

Statements of religious belief are exempt from action under the bill. Some of the churches seem to have developed an entrenched fear of the legislation. I have looked carefully at the voluminous arguments that have been put, and I do not believe those fears are reasonable.

I will not support either the honourable member for Mildura or the Liberal Party, whose amendments exclude employers from responsibility for ensuring that they provide safe environments for their employees.

At the same time as employers have to develop strategies for preventing sexual harassment or other sorts of harassment in the workplace, they will now need to add strategies to prevent racial or religious vilification. It is important to ensure that the legislation as it is worded, including the responsibilities of employers and various other amendments, is consistent with the responsibilities and practices outlined in the Equal Opportunity Act.

There are many examples of conduct which used to be acceptable but which now is not. People once said that domestic violence was nobody else's business but that of the couple involved. Abusing people on the basis of their colour, race or religion, which very few people would find acceptable now, was once regarded as normal. All other states have similar legislation, and this legislation, as it has developed and grown, is consistent with theirs. I do not believe it is the answer to preventing racial vilification — and I do not think anybody is suggesting it is. I do, however, see it as one more step along the road to achieving a society that expects its members to treat each other with respect.

I support the bill. I hope that its final form has eased some of the concerns expressed by people during the gestation period of the legislation. I believe the bill can have very positive effects for all of us.

Mr CARLI (Coburg) — I speak in support of the Racial and Religious Tolerance Bill and am pleased to have the opportunity to speak for it because I represent one of the most ethnically and religiously diverse electorates in the state. It also contains possibly the highest Islamic population in the state. The Coburg electorate is a proud community. Indeed, the motto of the City of Moreland is 'One community, proudly diverse'. Nevertheless, our community has seen provocation that demonstrates the need for this sort of legislation. The bill will set a benchmark for community standards.

The event that best showed the potential for racial hatred and conflict in the community was the Iraqi war. During that period there was genuine provocation in my community, whether by elements within the community or from outside I do not know. Both physical and verbal attacks occurred, property was damaged and reading material and slogans attempting to create conflict with the Arab community were printed and distributed.

Members of the community took a stand and demonstrated maturity, strength and tolerance by resisting those provocations. Events like the Iraqi war, also known as the Gulf War, can create an explosive situation, but members of our community were able to avoid that. Still, after that experience I truly believe that violence can be provoked by elements of society that want to see racial and religious conflict. As a multi-ethnic, multicultural and multireligious society we need to set a high benchmark and maintain high expectations for behaviour in our community. We did that for equal opportunity, and now with this legislation we are following the processes of conciliation existing within the Equal Opportunity Act. The government insists on equal opportunity in all matters concerning religion, race, gender and political affiliation, so with this legislation we are broadening those expectations into the areas of acceptance and tolerance of ethnic and religious diversity.

The bill is important because it insists that we as a society be up-front about our limits on free speech, and clearly there must be limits. Our society does not tolerate racial hatred that can provoke severe conflict, or the sort of language that extends ridicule and hurt to individuals and communities.

A major meeting was held in Brunswick on the issue as part of the consultation process. The Labor Party put to that meeting the fact that the Labor government was elected on a platform that included antivilification legislation. The meeting contained a wide range of views, but primarily views of fringe elements of our society. Many people attending were followers of an American political thinker called Larouche. The Larouche people believe in a conspiracy between the English monarchy and the international Jewish community to destroy the economic base of society and make us all captives of the monarchy and Jewish business interests.

At the meeting they argued for freedom of speech. But did they practise freedom of speech at the meeting? They certainly did not! They ensured that any other opinion was cut out of the discussions. They took over all the minute-taking of the meeting in a most underhanded way and then presented what they said were the opinions of the various working groups in the town hall — but they were not the opinions of those groups, they were the opinions of the Larouche organisation. They hardly demonstrated the virtues of freedom of speech when they were clearly stifling freedom of speech at the meeting themselves.

The bill places restraints on freedom of speech, as does much other legislation such as equal opportunity legislation. Governments clearly place limits on what people can say and do, and the bill parallels those similar acts. Societies set standards and expectations on the behaviour of community members.

I do not accept that the reports of working groups of the Brunswick meeting were representative of the Brunswick–Coburg community. Discussions I have had with community and religious leaders indicate a lot of support for the legislation.

In the history of that area there have been moments of stress and strain on tolerance, and provocative elements in the community have tried to set one group against

another. The community has resisted those forces. I still believe, however, there is a need to set a standard to ensure resistance and provide opportunities to take individuals to the Equal Opportunity Commission or, in serious cases, to criminal prosecution.

I heard the speech given by the honourable member for Bulleen and I am not sure whether he supported the bill or was against it. I expected a much more positive contribution from someone from his background and from someone who wishes to become a player in the ethnic communities. During the debate he has been a spoiler. He has tried to send out misinformation and to be provocative and not honest in our attempt to debate genuine issues. He has been misinforming communities about the legislation and has been a negative element in the debate, which he further demonstrated in his brief intervention in the house.

The honourable member is failing in his wish to be a player in the ethnic communities. His contribution today was a disgrace. If he genuinely wants to be a player and a spokesperson for the opposition, he must do much more with the ethnic communities to work issues through with them, particularly serious issues such as the Racial and Religious Tolerance Bill, because it is important to our communities. It is important that we have a positive contribution, however much the government and the opposition disagree on the finer points.

Mrs FYFFE (Evelyn) — It is an honour to speak on the bill tonight. When I was elected to this house I felt humbled and privileged to be representing the people of Evelyn. Today I am proud to be a member of the Liberal Party. This morning the Liberal Party stood by its ethics of allowing freedom of speech, freedom of debate and the right of the individual to express an opinion. It was handled with dignity, strength and great leadership. We have come out of those discussions a stronger and more united party than before the election. I offer my sincere appreciation to the Leader of the Opposition, Dr Napthine, for the way he led the debate and encouraged us to say what we felt.

I also appreciate the work undertaken by the honourable members for Caulfield and Bulleen and an honourable member for Templestowe Province in the other place. They have worked hard to ensure every member of the Liberal Party has been fully briefed on all aspects of the bill.

Many of my constituents have spoken to me with deep sincerity and understanding in expressing their opinions and views on the legislation. They have understood the difficulty that members of Parliament have in making a decision when they are getting so many different opinions.

Tonight I will be voting for the bill, but I respect my colleagues who will not be voting for it because they are looking at it in other ways. They are looking at it with honesty and integrity, and they have my deepest respect.

One of the issues raised with me by my constituents is religious cults. We have all read about them, and some people have experienced their children being drawn into a group of people and away from the family. Eventually they might draw that young adult back into their family and as the story unfolds they discover it was the result of the pervasive influence of a religious cult. They become angry and want to protect the rest of society, so they may speak out against them. Is their wanting to save people inciting religious vilification? That is the question they have raised with me.

It is also very difficult with some nationalities where religion and culture are blended. The bill will create more problems than it solves on the question of whether certain signs or gestures are intended to incite when culture and religion are so closely intertwined. Victoria has close to 200 different nationalities who work, play sport, socialise, shop, and live together side by side in harmony.

I am concerned about the onus on employers. The second-reading speech states:

> Employers will also be vicariously liable for vilification in the workplace which they have not taken steps to prevent.

What a Pandora's box that will open for the legal profession, especially the no-success, no-fee brigade. Pity the poor employers of Victoria. This government acts like a shopkeeper who sets out his wares in the way he wants them. He stocks the goods he wants. He opens the hours he wants. He cannot stand the bother of the customers coming in, and then he stands and looks at the empty till and wonders why. This government wants all the taxes, it wants its union mates to have jobs, but it is doing everything in its power to drive businesses out of Victoria.

I refer to the Sweeney Research report, which was commissioned by the government at a cost of $35 200. It states:

> The majority viewpoint emerging out of this research is that …
>
> > Australia has a diversity of religions. Everyone has the right to choose. That right is important and today there is little prejudice, often because we're not sure who is what (and don't really care).

> In comparison with the past, there have been ecumenical movements. So, the community is not convinced there is a need for legislation.
>
> They are unclear about what it would cover (other than to reaffirm individual's rights). Above all else, they are unsure as to how any government initiative could make a noteworthy positive contribution.
>
> And, many do believe that this is outside the government's mandate. For them to accept such a proactive role, they would have to, first of all, become more aware of the problem (and its manifestations). As we foreshadowed earlier, racial vilification totally dominates religious vilification.

That report was given to the government before the model bill was released into the community — a model bill that has caused so much angst, unrest and unnecessary tensions in the community.

The legislation is a result of Labor Party policy before the election, a policy it reaffirmed during the campaign. With the support of the Independents, the Labor Party is now the state government. The Labor Party was clear on its intention in its policies. It was put into government by the three Independents — three, not just one — and it must be disappointing to the government to have two Independents now taking a position based on political opportunism and opposing the legislation.

However, one of the most difficult things for any growing and rapidly developing society is to balance the rights of free speech with the needs of minorities to be protected. We have the right to freedom of speech and to freedom of religion, but we do not have the right to racially vilify or abuse any other human being.

I understand that in New South Wales there has been similar legislation for several years — I think since 1991 — and there has not been a prosecution. In light of the New South Wales experience, it can also be rightly asked: if there have been no prosecutions, why do we need the legislation? Even if it does appear to be only symbolic and only for a very few, that symbol is probably worth while.

There is a schoolyard chant that says, 'Sticks and stones may break my bones but names will never hurt me'. That is a piece of schoolyard wisdom that all of us know is not true: names can and do hurt. You can do something for which 15 people praise you and say it was a job well done, but one person will criticise you and say what you did was terrible. What is the one thing you remember as you are driving home? It is that one piece of criticism. It is human nature that we tend to forget all the strong and positive comments that are made to us. Those words of criticism do hurt.

Mr LEIGHTON (Preston) — As the son of a Holocaust survivor, in fact one who came here on the *Dunera* during the war as a Jewish refugee, or perhaps more appropriately as an internee, it is a privilege for me to be able to speak in support of the bill. I will say a bit more about that in a moment, but like that of the honourable member for Coburg, my electorate is ethnically and religiously diverse.

More than 50 per cent of my constituents were either born overseas or have a parent born overseas. Many are members of the traditional communities that came here post-Second World War, such as the Italians, the Greeks and the Macedonians, and then there are the more recent settlers, the Vietnamese and the Chinese — many of whom are Buddhist, and many from an Arabic background, a large number of whom who are Islamic. There is no doubt in my mind that my community would have me support the bill.

Over the years I have attended a yearly function to celebrate the independence of Israel, as have many members from both sides of the house. I recall at one such function, around 1991 or 1992, the then Leader of the Opposition, Mr Kennett, promised in his speech that if he formed government he would introduce such a bill. Ten years later it is pleasing to see the bill in the house and to congratulate members of the Liberal Party on their support of it. That support will ensure the bill gets through another place as well as this place and will send a message to the community that the legislation has genuine bipartisan support.

In thinking about what I would say on the bill I looked at an article written by Terry Lane and which appeared in the *Sunday Age* of 15 October 2000. He was writing after the Human Rights and Equal Opportunities Commissioner found against Dr Frederick Toben of the so-called Adelaide Institute and the sort of things that Dr Toben had posted on his web site.

I quote from the finding of the commission that the site contained claims such as that:

> (a) the perceived knowledge of the Nazi Holocaust is nothing more than an 'allegation' levelled by 'defamers and libellers';
>
> (b) there was a 'Jewish-Bolshevik Holocaust' which is not referred to as 'alleged' which shows that 'Jews' are 'murderers'.

Quite rightly the Human Rights and Equal Opportunities Commission found against Dr Toben and ordered that those statements be removed from his site. I looked today and his web site is now blank.

The final paragraph of Terry Lane's article summarises his argument:

> If Toben is telling the truth, nothing will stop it. If he is a malicious fantasist, then he will be ignored. We should test his assertions, not silence them.

With the greatest of respect I disagree with what Terry Lane had to say. I have no difficulty with that argument if, for instance, you are looking at statements made by wacky organisations such as the Citizens Electoral Council of Australia. A press release on its site states:

> 'Well, the cat's out of the bag now', remarked Citizens Electoral Council national secretary Craig Isherwood, after reading a 24 January media release by the so-called Anti-Defamation Commission (ADC) of B'nai B'rith. 'After reading that, anyone who still believes that the ADC is anything but a front for Her Majesty and her globalist financial policies, is a complete fool'.

I have no difficulty with the Terry Lane approach to that. In fact, the more people read it the better they will see that a mob like the Citizens Electoral Council are cranks. However, I cannot extend the Terry Lane argument to the sort of material published by Frederick Toben or that enunciated by David Irving, the revisionist British historian. It goes much further than just an academic debate of ideas and a demonstration of who is wrong; it goes to the pain and suffering that people experience. That is very much so for Holocaust survivors and, in many cases, their children.

I refer to two examples, and in doing so rebut the sort of garbage propounded by Dr Toben. Because he was two years younger, my father's cousin was not shipped out to Australia; he stayed in England. During the war he joined the English army and at the end of the war the English sent him to German concentration camps. He spoke German and, in their view, he would empathise with the remaining inmates. Tears streamed from his eyes as he recounted to me the job he was given of counting skeletons. In my view the sort of stuff enunciated by Frederick Toben is not only a serious vilification offence but is criminal and should be treated as such.

Closer to home, after arriving in Australia, a German Jewish friend of my parents spent the rest of his life housebound because every hour he had chronic diarrhoea and could not leave his house. To people like him the issue goes beyond free speech because it causes continuing and enormous harm.

While I support free speech and am generally happy to debate ideas there is a time when a line must be drawn and it must be recognised that what is being said or published causes enormous harm. For that reason I support the bill.

Mr PERTON (Doncaster) — It is a pleasure to follow my colleague the honourable member for Preston, who was elected on the same day as I was, and the honourable members for Coburg and Evelyn. We are all products of our backgrounds and our experiences.

I understand the words of the honourable member for Preston in talking about his mother, a refugee to this country. I, too, come from a family of refugees. In two weeks there will be a ceremony at Lithuanian House to commemorate the deportation of Lithuanians to Siberia. I come from two ethnicities. One is Latvian, and nearly one in three Latvians disappeared, was deported or became a refugee during World War II. A large proportion of Lithuanians were deported to Siberia and never returned. Lithuania witnessed the sad history of its Jewish people and their disappearance during World War II.

This is a difficult debate in which Liberals look to a range of different values, one of which is the importance of freedom of speech — the heart and soul of not only the American constitution but also of our own constitution and system of democracy. Our own High Court has made findings on the centrality and importance of freedom of speech to our democratic system. My party has other important values.

Mr Batchelor interjected.

Mr PERTON — Do you mind? Just relax the conversation, thank you!

The lack of courtesy of the Minister for Transport is some indication of why people may see there is a lack of credibility in this Parliament when it is dealing with the question of language. The minister uses a vicious tongue in this house, and it may be that honourable members would have more credibility in this debate if they treated each other with a little more respect. It may be part of the Westminster system of government, but perhaps out of this we can temper both our own language in discussion and our attempts to ridicule our opponents, even during this serious debate.

As I said earlier, freedom of speech is an important value in my party, as is individual dignity. That has been so right from the earliest days, when Sir Robert Menzies established the Liberal Party's constitution. He reflected on the creation of the party in his book *Afternoon Light*. He talked about the centrality of the dignity of the individual and the importance to a society of respect for the individual.

Another important value is protection of minorities. Throughout the history of the Liberal Party runs this

thread of the protection of minorities. It is found not only in Menzies but also in Deakin, and even in the early beginnings of liberalism. John Stuart Mill wrote about the responsibilities of the majority to protect minorities, and even about the potential tyranny of the majority.

There have been many quotes during this debate, but with such division among civil libertarians and liberals, both living and dead, honourable members will not find any great assistance in older writings. However, as I looked to find some guidance I turned to the politician who was a strong influence on many of us in our early years of development as politicians. I refer to John F. Kennedy, the President of the United States of America, who said:

> I believe in human dignity as the source of national purpose, human liberty as the source of national action, the human heart as the source of national compassion, and in the human mind as the source of our invention and our ideas.

In this debate I fall squarely among those who say that human dignity and respect for the individual require us to temper our words and to prohibit conduct that incites hatred and malice. I do so in representing an electorate that is even more eclectic than those of the honourable members for Preston and Coburg. I grew up in the electorate of Coburg, but I now represent an electorate in which 35 per cent of the population were born overseas and in which roughly 65 per cent of people were either born overseas or are the children of migrants. I represent a rich and diverse Chinese community, a Jewish community, Germans and South Africans — a thoroughly diverse community.

Typically, it is the most recently arrived community that suffers the most from racial vilification. One has only to hear the story of a young Vietnamese boy in my electorate who did what many 16-year-olds do — he knocked on shop doors and asked for a job. In the second shop that child was subject to the sort of vilification that would horrify any one of us. Recently, as I walked through a tunnel under a road between two parks, I saw racist slurs against my Chinese constituents and realised that the Chinese lady walking behind me was going to see them and might regard them with fear and almost a sense of terror. As a member of Parliament, such examples disappoint me.

This matter is of central importance to this country, which, as members of the National Party have said, is immensely tolerant. However, other countries make similar declarations. As I was preparing for this speech I saw that countries as diverse as Canada and Greece have declared that they are the most tolerant.

Nevertheless, terrible examples of intolerance can be found within tolerant countries. The honourable member for Coburg referred to the Citizens Electoral Council and its support for the racist Larouche. Look at the letters I received that were against this bill. Many were in the standard form advocated by the Citizens Electoral Council.

Even more puzzling were the letters I received from Christian churches, which claimed that this legislation would somehow violate their religious rights. Bearing in mind the actual terms of the bill, I have talked about this with my family and staff, and on Sunday I rang a number of my constituents at random and asked their opinions. I do not understand how a Christian church — or any church — can claim the right to incite hatred of or vilify any other person. It is beyond me.

This is a country of more than 150 nationalities, with maybe 200 ethnicities. It can work as a cohesive whole only if we treat each other with tolerance and respect. I used to be a liberal who believed in tolerating even the intolerant. I used to think, ‘Okay, I understand where they are coming from. I have to treat their ideas with respect, listen to them and understand them’. That was until a debate a few years ago in which I tried to reach out to someone to find some common accord and was confronted by that person staring me down and saying, ‘I don’t just hate your idea; I hate you and I will destroy you’. That is intolerable.

As a society we have to argue ideas. Each of us has to advocate our own ideas strongly, whether they be religious, philosophical or otherwise, but as a central value we also have to respect each other. Like the honourable member for Gippsland West, I have some difficulty personally with some of the exemptions in the bill. I am not sure that as a society we will really want to engage in ridicule on the basis of someone’s race or religion in times to come. We have all laughed at ethnic humour. The Jewish community has the funniest jokes about Jewish life, as does the Chinese community — and as I see my Bosnian friend behind me here, I am sure Bosnians have some of the funniest jokes about themselves. But over the coming decades as a society we have to grow out of that. Just as we grow out of things with age, we have to do that as a society as well.

In the interests of the many honourable members who want to speak on this issue, I will conclude my contribution. I represent a wonderfully diverse electorate, that has in it almost all of the 150 nationalities and 200 ethnicities. It is a wonderful electorate that expects me to support the bill. The bill is not perfect, and I wish the government had engaged in a more bipartisan process. I certainly support the

amendments to be moved by the honourable member for Caulfield. However, legislation promoting tolerance, prohibiting vilification and prohibiting the incitement of hatred is something my electorate expects me to support in principle, and I certainly do that.

Mr JASPER (Murray Valley) — I oppose the bill and support the comments made by the Leader of the National Party and other members of the National Party in opposition to the legislation. I have said on previous occasions in this Parliament that a number of issues of concern are raised in this place, some of which are major so far as certain groups in the community are concerned, and certainly that applies across my electorate of Murray Valley. When the racial and religious tolerance discussion paper and model bill were presented to Parliament and issued across Victoria late last year, a number of meetings were attended by ministers, members of Parliament and the general public in an attempt to disseminate information on them.

Many members of Parliament seek the views of the people living within their electorates. I did precisely that. I undertook to seek the views of the people across the electorate on the bill, and I can tell the house that I did not receive one piece of correspondence or have anyone contact my electorate office in Wangaratta supporting the bill. All the contact was opposed to the bill.

It was interesting to listen to the previous speakers, and I listened with great interest to the impassioned contribution of the honourable member for Caulfield. I acknowledge the work she has done in investigating the legislation and listening to people across Victoria. In her contribution she particularly mentioned a person within her electorate who years ago had come from Russia. In an impassioned speech she stated that this person had said what a great country Australia was to live in and what a great state Victoria was because in this country she had all the freedoms she did not have in her country of origin.

However, the honourable member for Caulfield almost defeated her own argument in support of the bill by indicating that many people had indicated to her — as they have to me — that the current situation in Victoria is satisfactory. Do we need to change? Is this political correctness gone mad? Is there a reason for the bill? I believe there is no need for it.

Mr Pandazopoulos interjected.

Mr JASPER — I hear the minister interjecting, and I am interested to hear his comments, but he should listen to mine. The minister has spoken and he should acknowledge that as the representative of all the people of Murray Valley I am entitled to put their view.

I can go back 30 or 40 years to a show called *They're a Weird Mob*. I am not sure whether any of the younger people have heard of it, but Nino Culotta was the main character. He was a migrant from Italy, which was played up to the greatest extent. This show was watched to by all sorts of people, and we got a lot of laughs out of it. I am sure that the migrants to Australia got a lot of laughs out of it as well. They recognised they had come into the country without understanding how we normally operated — and they didn't understand the language. But Nino learnt the language. He also learnt that Australia is a great place to live in. That is what we need to recognise.

Do we need the bill when we see what we have in Australia and in this state? The honourable member for Doncaster said he was concerned that we really need to accept there are people in Victoria who are being vilified for a number of reasons. However, if he thinks it is such a dreadful place I suggest he also talk to people who think this is the best place on earth. Honourable members need to recognise there are laws in Australia that protect people who come up against discrimination. There are also appropriate protections in Victoria. We also need to recognise that most people would say that this is one of the best places on earth in which to live.

I will quote from two or three letters I have received, because they highlight the difficulties with the bill. One letter says:

> The state government has never adequately made the case why Victoria, one of the most tolerant places around and a favoured haven for migrants from around the world, needs such legislation in the first place. As a migrant myself I have had no problem with tolerance in Victoria.

It further states:

> The risks to freedom of speech far outweigh any alleged benefits the government says would be reaped.

It further states:

> Furthermore, it is unfair to hold employers responsible for alleged vilification of employees …
>
> The greatest source of religious vilification has come from the very quarters that are exempted by the bill, thus allowing a few elitists to denigrate religious faith with impunity.
>
> The amended bill extended the exemptions or exceptions to religious activity. However, these are not automatic and they would have to be applied for after a complaint had been lodged.

> In summary, this legislation is both needless and potentially dangerous.

Another letter that I received states:

> The price of freedom is eternal vigilance. Times can change, and they could in Australia if laws like this find their way onto the statute books. Therefore it is in the interests of all people in Australia, as free people and independent people living under stars of the Southern Cross, to ensure that such proposed legislation never sees the light of day. Rather we should [be] looking to strengthen those foundations which make Australia one of the most tolerant nations in the world, the foundation of which is the common-law process, which has been tried and tested over time. It works.
>
> This Racial and Religious Tolerance Bill places greater emphasis on 'rights' instead of 'obligations'.

Honourable members would have received many letters from people right across Victoria indicating those same sorts of sentiments. Those people are in the majority, and they are the people we should be responding to. Perhaps there are instances where difficulties are occurring, but surely the current legislation can handle them. People may say that I do not have the same numbers of migrants from throughout the world in my electorate of Murray Valley in north-eastern Victoria. But the township of Cobram, for instance, expanded enormously after the Second World War, boosted by migrants from Italy in particular. They have worked extremely hard in the primary production areas of irrigation, horticulture, fruit and dairying. That 25 per cent of the population has helped develop a strong economy in Cobram.

Last Saturday night I went to the annual harvest dinner at the Italian social club in Cobram. It was a wonderful night. About 300 people were there, at least half of whom were Italian or of Italian descent. I had a great night mixing with people who have taken up citizenship and accepted their responsibilities as members of the community. About 150 Iraqis are now living in Cobram. They are seeking to become citizens and to accept their responsibilities as members of their community, not only in working in the economy but in being part of the social set up.

The major city in my area is Wangaratta, which has a large Italian population that extends up into Myrtleford. Those are the sorts of people who live in my electorate. They have become part of their communities — and they want to live in north-eastern Victoria because of the society it is. They do not want any more laws to protect them. They believe the current system enables them to accept their responsibilities and be part of the community while being adequately protected.

A letter I received from another constituent states:

> We are shocked and disappointed that despite the fact that the overwhelming number of submissions opposed the Racial and Religious Vilification paper, a bill has been drafted and is to be presented to Parliament. We are appalled that after publicising a discussion paper and calling for comment, the government has claimed that opposition to the bill is an 'organised campaign'. How else can those who oppose this type of tyrannical legislation express their concerns but by organising themselves and campaigning against the bill? This is part of normal political activity in a democracy but it seems unacceptable to the government, not a good omen for freedom of speech after the bill is passed.

That is an important letter.

I will comment on other aspects of the bill, some of which have already been commented on by others. The second-reading speech talks about the need to educate people as part of a comprehensive and long-term campaign to combat prejudice. People should grow up accepting that in society people should be permitted to live and operate without being vilified. The government has been criticised for not introducing community education programs, which are important.

Looking at some of the clauses it is clear that employers will have difficulty with the legislation. Children can make complaints — and under the bill a child is defined as someone under the age of 18. The commission can assist people to make their complaints. Complaints against an unincorporated association can go not only to the president and secretary of the association but also to the other people running it should the president and secretary be removed from office — which could result in a witch-hunt. Those are some of the aspects of the legislation which the National Party sees as being difficult to implement. They will cause problems rather than assist in what the government is seeking to implement.

On behalf of the people of Murray Valley I close by summarising the feelings I have about the legislation, for which there is no demonstrated need or demand. The bill will restrict rather than enhance freedoms. It is simply not possible to legislate for people to be good, moral, ethical or tolerant. There are better ways for alleged or proven intolerance to be addressed. Finally, the principle of free speech demands that people should be free to proclaim their faith, their beliefs and their principles without fear of retribution or criminal penalties. The legislation is not required, and I join with other members of the National Party in opposing its passage.

Mr WYNNE (Richmond) — I welcome the opportunity to join the debate on the Racial and Religious Tolerance Bill. Honourable members come to the debate with their own deeply held views, which are

very much a product of their upbringing and antecedents.

I am a first generation Australian; my father was a migrant from Ireland. My wife's mother was from the former Yugoslavia. She left that country before the war — —

Mrs Peulich — Which war?

Mr WYNNE — The Second World War.

Just prior to her untimely death less than 12 months ago we were talking about what it meant to her to be a displaced person who had to emigrate from her country of birth. Having fled to Italy, she hoped to return to her home country of Yugoslavia. That, of course, she was not able to do for another 35 years. She migrated to Australia despite having a number of other opportunities, such as migrating to America or Canada. She came to Australia with her husband for one very important reason: because of the vigorous parliamentary democracy that this country enjoyed. In that respect my contribution to the debate is tinged with sadness — as I said, it is less than 12 months since her passing. She greatly influenced many of my views relating to how important this country has been for the people who have had to flee from oppressive regimes, violence and racial intolerance.

I have the pleasure and honour of representing one of the most multicultural communities in Victoria — the people of Richmond. In my electorate we have drawn together communities as diverse as there are in any area, certainly in Victoria and probably in Australia.

Successive waves of migration came from England and Ireland in the earlier years and from Asia and the Horn of Africa in recent years. I will refer briefly to an organisation called the Victorian Foundation for Survivors of Torture. During the formulation and consultation stage of the bill that organisation made a submission in which it states:

> People from refugee backgrounds have endured many traumatic events prior to arrival in Australia. These include forced dislocation, human rights abuses, prolonged political repression, extreme hardship, profound losses, violence and persecution. They also come from diverse cultural, religious and racial backgrounds. As members of minority groups in Australia, they may be particularly vulnerable to racial vilification and its effects, especially for those from communities whose racial features and religious and cultural practices distinguish them from the wider community.

It is in that context that the Premier and the government have shown extraordinary leadership. This government is serious in its commitment to all Victorians, and this bill addresses the regrettable incidents of abuse and harassment that occur on racial and religious grounds.

It is a reality that some Victorians from different ethnic backgrounds and indigenous cultures or those who observe different religious faiths are on occasion vilified on the grounds of their race or religious beliefs. It is the view of this government that everyone has a right to live free from harassment and intimidation. Racial and religious vilification has no place in this culturally diverse society.

For the purposes of this bill the term 'racial and religious vilification' describes any sort of conduct that communicates serious racial and religious intolerance. We are not talking about side comments or private conversations; we are talking about serious racial and religious intolerance. The definition of 'vilification' attracting civil remedies is different from the definition of 'vilification' attracting criminal sanctions. A criminal offence is confined to specific behaviours that have the serious intent of inciting hatred, serious contempt or severe ridicule towards a targeted person on the grounds of race or religion. The important words are 'serious intent of inciting'.

The government wants to ensure that there are sanctions to deal with incidents of particularly damaging vilification. It is considered that those sanctions would be used rarely as they are in any other part of Australia. As the minister said, Victoria is the only state in Australia that has not enacted this legislation. There has been extensive consultation on this — —

Mr Mildenhall interjected.

Mr WYNNE — As my colleague the honourable member for Footscray has said, there has been exhaustive consultation on this bill, which is the hallmark of the Bracks government. The government was committed to putting up the legislation for broad consultation, public debate and exposure, and the government has made some amendments to the bill through that consultative process. It is important for the community to stand up and say that it is not prepared in a tolerant society to allow incitement and racial vilification to occur.

Australia is a wonderful country. It has been made a home for people who have come from a diverse range of backgrounds and extraordinarily traumatic situations. As people would be aware, my electorate is home to one of the largest Timorese communities in Australia, and we all know the terrible situation that community suffered during the recent violence in Timor.

The Bracks government wants to stand up against intolerance and vilification. I applaud the leadership of the Premier on this issue, and I wish the bill a speedy passage.

Ms McCALL (Frankston) — It has been a very interesting day for those of us who sit on this side of the chamber. In some ways it has probably been a red-letter day. I often wonder what the former member for Frankston East, the late Peter McLellan, would think about certain matters, and I wondered what he would have thought about the debate in the party room this morning. Peter was always vehement in expressing his independent views, particularly about the right of people to speak out, to say what they believed in and to stand by those beliefs. Peter and I did not always agree with each other: we probably had a love-hate relationship. I wonder what he would have said if he had been in the party room this morning to listen to the passionate, intense, frank and open debate and heard the Leader of the Opposition, much to his credit for his leadership, say that we had a free vote on what is one of the most contentious, controversial and difficult pieces of legislation that we as members of Parliament will ever have to deal with.

I think Peter would have been interested as to who voted which way. He would have enjoyed the debate and probably been at its forefront. The people who elected him as the honourable member for Frankston East in 1992 and 1996 would also have been proud. As the current member for Frankston — and potentially the whole of Frankston after the redistribution — I am very aware of the views of those people who supported Peter between 1992 and 1999. I am also aware of the views of members of my electorate in the current seat of Frankston who have spoken to me about the bill.

When the model bill was first introduced and the Labor government paid $35 200 for a research project, I went among my community to discuss it with them. The Frankston electorate is not a particularly cultural or ethnically diverse community. Less than 10 per cent of its constituents were born overseas, the vast majority of whom, like me, came from the United Kingdom. Others came from Northern Ireland, Holland, Belgium, like my mother, Italy and Greece. It would have been wrong of me not to discuss the bill with them. I circulated copies of the model bill, sought appointments with several groups and met and spoke with a range of people, some of whom were members of the Liberal Party and some of whom were not. I then waited for the responses. I received not one vote of support for the bill from my electorate — not one.

I could stand in this chamber and say I can disregard the constituency I represent. I could stand in this chamber and argue that there are some fundamental things about which I feel very strongly. No honourable member would support vilification or ridicule, although we put up with rather a lot of it in this chamber! I come from an electorate that believes in both freedom of speech and freedom of action and which strongly resists the imposition of law as to the way people think and behave.

Nobody would suggest condoning for 1 minute any sort of violent behaviour or anything similar to the behaviour seen in Oldham in Lancashire, the riots in west London when I was still in England or the warnings that Enoch Powell and his ilk gave to the British community. However, I would be betraying the constituency that put me in this Parliament if I stood in this chamber and said that I could support the legislation. I cannot.

I have enormous respect for my colleagues on this side of the house and throughout the chamber who support the legislation and who will vote for it. I respect their rights within the community of Victoria to support it. My degree was from a French university where I studied history, philosophy and politics, and I am always reminded that Voltaire said, ‘I may not agree with everything you say, but I will defend to the death your right to say it’. For that reason and because I represent the constituency of Frankston, I am proud to take the stand I have.

Mrs MADDIGAN (Essendon) — I have pleasure in joining with my colleagues on this side of the house in supporting the Racial and Religious Tolerance Bill. Like many honourable members I have attended many citizenship ceremonies, both in my role as a member of Parliament and previously as a councillor. I have always had a great deal of respect for people who are brave enough to come from a country often with different cultural traditions to our own to eventually become Australian citizens.

The Commonwealth of Australia encourages people to come to settle in our country and actively encourages them to become citizens We have a responsibility to protect them, and in many ways we do. There are many laws that protect all citizens in a range of areas, including physical assault. However, some of the most serious harm that can be committed against people is racial or religious vilification.

Unprovoked and vicious verbal attacks on people who may be going about their business without interfering with other people’s lives can be more damaging than a

physical blow. Residents who become citizens of Australia have the right to expect protection, which is why the bill is important and why I am pleased to support it.

For many years I worked at the Footscray library. I remember vicious comments being made on a number of occasions, particularly about members of the fairly new Vietnamese community. As an example, young teenage girls walking home from school one day were suddenly attacked and abused in a most vicious way. For those young women the situation would have been both deeply hurtful and frightening. We owe a responsibility to those people and all members of the community to protect them from attacks of that sort.

I am disappointed that some opposition members have suggested that the consultation process was lacking. The government has followed a sensible process with the introduction of the Racial and Religious Tolerance Bill. The model bill and discussion paper were put out in December and six months have now passed. The bill was discussed on many occasions; public meetings were held and opportunities given to people to make written submissions and ask questions to clarify the matter. As has already been mentioned, some 5500 submissions were received as a result of that process, resulting in several changes to the bill.

That democratic and extensive community consultation process has improved the bill and any concerns or areas of confusion have been cleared up, including whether racial vilification on the Internet would be covered. A note in the bill covers that.

Some people have considered this bill to have more impact than it does. I have not had any letters from people in my electorate but I have received some extraordinary emails from people outside Australia and in other states suggesting that all sorts of amazing things would occur in this state if this bill were passed. As many members have mentioned, similar legislation exists in every state except the Northern Territory and is quite widespread in other countries and it is not as though every week we see other states involved in legal action in relation to racial and religious tolerance matters. I believe that there has been only one case in New South Wales in 10 years.

It is not as if there will be constant litigation because of this bill, but the government is prepared to put in place one of its election commitments and something that has been part of Labor Party policy for many years. That in itself is an important statement to our community. It tells people that we will not allow sections of the community to be abused by other sections of the community for reasons of race or religion. The fact that the bill is in place will make some people think twice before making statements when they do not understand the effect those statements will have on the people to whom they are directed.

I think the legislation is excellent. Many people in Victoria will feel comforted by the fact that we have a state initiative which will support them in dealing with unwanted abuse. I think we will find it to be a useful piece of legislation for a range of Victorians.

Mrs PEULICH (Bentleigh) — There is no doubt that all members of Parliament will denounce racial and religious vilification. We all share that sentiment and we are all committed to representing constituencies and people who may not be in a position to represent themselves. It would certainly be hoped that we are all engaging in this debate in a very genuine fashion. I certainly approach this debate from the point of view of my convictions.

On the issue of racial and religious tolerance, there is not a significant difference between members of Parliament and members of the community; we all have a similar view that recognises that Australia is based on the fair-go principle and tolerance and probably has the greatest degree of acceptance of new migrants of any country in the world. Having migrated here as a 10-year-old I know from personal experience that that is the case. The difference lies in the solution — that is, how to preserve and promote multicultural harmony. That is where the distinction lies. Some people believe legislation is the answer. We have heard that, and presumably this legislation is a response to that. Others believe that education is the answer and perhaps symbolic actions of the nature engaged in by the former Premier, Jeff Kennett, in denouncing One Nation and all that it stood for. In actual fact, as a result of some very strong utterings on the part of the then Premier we saw the turnout and support for One Nation at the federal election to be the lowest in Victoria of any state in Australia, despite the fact that Victoria did not have this legislation and other states did. It has been disturbing to many people in the community that interracial relations in other states are becoming a little less tolerant and harmonious. It has been a cause for concern and comment in the media.

We will judge what effect this legislation has on multicultural harmony. One clear indicator is the support for One Nation. We know what it is today and we will judge Premier Bracks and his government on the level of support for One Nation in the future. That is one indicator of whether this initiative promotes

multicultural harmony or whether it will, as I suspect, undermine and erode it.

I have some very serious concerns about this legislation. Like the honourable member for Frankston and all other members, in the short time available to me since this bill was introduced into the house I have endeavoured to seek as much feedback and input from my constituents, including many people from multicultural communities and many who are Jewish. Let me say without a shadow of a doubt that I have had one and a half responses in favour of the bill. The half was an equivocal response of, 'Yes, but I have some concerns and I am sitting on the fence'. One was in favour, and I would presume there may be a few more. I am sure that my constituent George Lekakis, a longstanding campaigner for this measure and, I understand, a longstanding member of the Labor Party, would applaud the government's actions. That is fine but let us judge the achievements by some very clear indicators.

My serious concerns have not been addressed by the amendments brought into the house to date. I am concerned that the legislation will unduly impact on the freedom of speech which I understand is not entirely unfettered in a democratic society. I am concerned that the bill infringes upon certain rights. Most importantly, I am concerned that the effect of the bill will be counterproductive and will provide a legislative framework, a mechanism for the extreme left and the extreme right, for the zealots to score points against one another and disturb and worsen what has been enjoyed by all of us and by migrants like myself who have come to this country to start a new life — that is, a relatively harmonious multicultural community.

Liberty Victoria outlined in its submission all of the criminal and civil remedies available against racially and religiously inspired speech, conduct involving damage to property or threatened and actual violence against a person already being an offence, hate speech being a criminal offence, summary offences being available for dealing with use of threatening language, abuse and insulting words and so on. I will not recount that. I understand that the police may not be fully au fait with those laws; perhaps they need to upgrade their professional development in order to understand that some of these remedies exist already.

My first and foremost concern is that one area where this legislation differs from the legislation in other states is in the inclusion of the word 'religion'. If the bill had focused on racial vilification itself, as is Labor's policy, it would have been less complicated. However, when you are dealing with ethnic communities, the inclusion of religion, which is not a clear-cut issue, makes it very problematic. How do you separate religion from politics and political discourse in the Croatian and Serbian communities, the Greek communities, the Macedonian communities, the Cypriot, Indian and Pakistani communities? You cannot. This bill gives the power to a secular tribunal, the Equal Opportunity Commission, to attempt to draw a line between what is religious and what is political. Centuries of intercultural conflict have not been able to do that. The state is buying into an argument that it cannot win. All it can do is aggravate conflicts that are sometimes better dealt with with a degree of tolerance, some symbolic denouncement and the existing legislative framework, which deals with these issues generically and does not pitch one community against another.

Just so that my sentiments are understood for what they are, my family has been the victim of both left-wing and right-wing dictatorships. My mother was a prisoner of war in a children's concentration camp during the Second World War. She used to work with Mr Lekakis. My grandfather was in a German concentration camp. My grandmother was on her way to Jasenovac, which was a concentration camp in Croatia. She was Serbian and she was on her way to be executed; she was saved by a Croatian fisherman. My grandfather was killed at the age of 41 by Serbian neighbours. He happened to have been a Catholic. Mind you, the Serbian who killed him continues to live in that village where members of my family continue to live because life has to go on. My great-grandfather was thrown into the River Sava by Nazis. Six years after the end of the war my parents — my mother aged 18, my father aged 19 — eloped because they came from different ethnic groups. My mother was Serbian Orthodox, Bosnian-born, and my father was a Catholic. Under their brand of politics he was a Croatian, which he actually never saw himself as. They eloped at a time when relationships between these groups were not tolerated.

I was secretly baptised at the age of seven because the former communist regime of Yugoslavia did not look favourably on people who engaged in religious activities. Another vivid experience I can recall is being subjected to corporal punishment at the age of six for daring to ask — I think it was my mother — an indiscreet question that would have led to her or my father's imprisonment had an informant or a neighbour overheard.

Freedom of speech is precious. That is why many of the provisions in this legislation are dangerous and sinister and evoke all of the worst possible fears in me, as I am sure they do in many people who have familiarised

themselves with the details. As I said, the inclusion of religion creates a huge complication. The Serbian expression of the three fingers is basically a religious symbol for the Father, Son and the Holy Ghost. However, the expression has also assumed political significance — namely, in symbolising the liberation of Serbia. So how does one judge what is religion and what is politics? It is hard, if not impossible, and the bill is buying into a debate that cannot be won via legislation.

The fact that criminal sanctions may apply to children as young as 10 is a huge worry. This is not the way to address or promote multicultural harmony. The fact that the exemptions are not automatic invariably means that freedom of speech will be curtailed until entitlement to an exemption is proven. The reversal of the onus of proof is an absolute imbalance. It certainly is not the right symbolism for a democratic society.

The ambiguity between private and public conversation is of enormous concern, not only to a person from my background but also to many people who have migrated to my electorate from former communist countries in Eastern Europe who fear informants.

The Minister assisting the Premier on Multicultural Affairs has stated that private conversations in the home would not be outlawed, while adding 'unless it could be proven that the intention was to vilify'. The bill states that a person who is complained about has to establish that the conversation was meant to be private. I am sorry, the line is not right. Will we need a barbecue-edition handbook for this piece of legislation?

Further, if the person complained about dies, the proceedings on the ground of vilification will still continue. I have concerns about an employer's liability for an employee's conduct and, which is equally disturbing, the fact that search warrants may be obtained and raids authorised if someone thinks a person or an organisation has vilifying material. All these provisions present more concerns rather than representing a genuine desire to promote multicultural harmony.

As I said, the deletion from the definitions of the word 'religion', which is so problematic for many ethnic communities, would improve the bill. Hate speech against the Jewish community would be addressed by the retention of the word 'racial' and by strengthening and enforcing existing laws. The ambiguity between 'private' and 'public' needs to be addressed, as does the elimination of criminal sanctions, especially as they pertain to children aged 10 and the reversal in the exemptions of the onus of proof.

I could certainly speak to the bill for a long time, but I understand that time is limited. To sum up, the racial vilification provisions, especially given the inclusion of 'religion', will subvert open debate on racial and ethnic issues and other issues that are in the public interest. The law will not change racist views or increase social cohesion. Only open debate and education will bring about changes, and we have seen a tragic example in the Balkans. We have also seen how the fear of speaking out against prevailing inter-ethnic rivalry prevents any sort of movement towards healing. The suppression of open debate will drive racism underground and make it more dangerous. Criminal courts can be used as platforms by racist extremists of both left and right persuasions, who can make martyrs of themselves and increase social division.

This legislation will worsen ethnic conflict rather than eliminate it. As I said, the baseline that I will be judging this legislation on is the level of support for One Nation at future elections. Victoria currently has the lowest level of support for One Nation, yet it is the only state that does not have this legislation. I will close on that note. Given all the issues I have raised, which I have a great deal of concern about, I will not be able to support the legislation as it stands.

Mr LANGUILLER (Sunshine) — I rise today proudly to support the Racial and Religious Tolerance Bill. As the elected member for Sunshine I represent one of the most ethnically, linguistically, racially and religiously diverse electorates in the land. I came to this country from Uruguay in Latin America. There, as I did here in Australia, I experienced racial vilification and racism, but I put on the record my pride in the fact that in Australia we are able to deal with these matters in a civilised manner.

Before coming to Australia in the mid-to-late 1970s I witnessed people being persecuted in Uruguay, Argentina and Chile purely because they were of Jewish background. Many of them were killed, tortured and caused to disappear under racist and fascist regimes. I am glad to confirm that today we are dealing with those matters in a much more sophisticated and tolerant way.

From the outset I wish to record that Australia was a multicultural, linguistic and ethnically diverse nation well before European settlement. As a matter of fact, sociologists and anthropologists from reputable universities, particularly La Trobe University, argue that Aboriginal and Torres Strait Islander communities were ethnically and religiously diverse and that more than 225 languages existed in this land before European settlement.

The following is a history of continuing multicultural diversity in Australia. People of British, Scottish, Irish, Chinese, Italian, Greek, Asian, Latin American and African backgrounds have over the past 10 or 15 years joined to form the very nature of Australian society. Debate on the bill should be placed squarely within the context of the historical fact that Australia has always been a multicultural society and ethnically, linguistically and religiously diverse.

The government and other supporters are right to present the bill to the Parliament and the Victorian community, because it will provide a balance between two fundamental rights — namely, the right of freedom of speech, a right we should all have, and the right to freedom from harm, hostility and vilification on the basis of race or religion. The bill strikes that balance correctly.

From contributions by some of my parliamentary colleagues I gained the impression that in some minds the idea of ethnic diversity relates only to non-English-speaking communities, particularly those that have come to Australia during or after the Second World War. Honourable members should recognise that, as I said, Australia has always been a multicultural society. The bill is not exclusively about protecting non-English-speaking minorities or other newly emerging minorities in our society. Rather, it deals with issues of racism, prejudice and hostility among all ethnic communities. It is important that we say so, and it is important that I say so.

Many members of non-English-speaking communities and emerging ethnic minorities have experienced racial and religious vilification, and examples of those experiences have surfaced recently in the press.

With this bill Victoria is making an important advance and will bring itself up to national and international standards. It will join the most advanced societies and international forums that have recognised the need to pass legislation to protect minorities within society.

We still need to debate issues of access and equity. The bill before us is certainly important, but I totally agree with my colleagues that legislation does not provide the whole answer. There is also the need for education and community campaigns to increase and improve services so that people can deal successfully with their communities and others.

These are matters of nation building. The proposition that Australia is a multicultural society must be continually reinforced and we should not shy away from it because the moment we do so we will cave in to the minorities that wish to impose racial and religious vilification.

In conclusion, I commend the government and the minister assisting the Premier on Multicultural Affairs for having conducted consultation on an extraordinary level. That is in stark contrast to the efforts of the previous government, which used to bring legislation into this chamber without talking to the community about it. I commend all those involved in the process of consultation with the community and wish the bill a speedy passage.

The ACTING SPEAKER (Mr Nardella) — Order! The Speaker has informed me that permission has been granted for a *Herald Sun* photographer to take photographs in the chamber. No flash equipment is to be used.

Mr INGRAM (Gippsland East) — I offer a contribution to the debate on the Racial and Religious Tolerance Bill. Due to the hour and the number of speakers still to come I will make it brief. I oppose the bill but not the principle behind it. We are extremely fortunate, indeed privileged, to live in a country that values the contributions of different cultures and religions. The mix of cultures has created a country that values the freedom, openness and strength of its society.

I was fortunate to grow up in a town in far East Gippsland called Mallacoota, which is 600 kilometres from Melbourne. We grew up with a vast array of different cultures and races around us. The town became multicultural very early because of the fledgling abalone industry, and people from countries all around the world came to develop it. Many of Australia's towns have developed in the same way as a result of the immigration policies. A classic example is the Snowy Mountains hydro-electric scheme, which brought together a huge number of cultures and has been a part of the development of the multicultural society in which we now all live.

Mr Pandazopoulos interjected.

Mr INGRAM — Indeed, the gold rush is another example. A number of East Gippsland towns, such as Omeo, were built around Chinese diggings, and the presence of indigenous groups adds to the mix. It has not always been an easy mix. We have not always had an easy mingling of cultural beliefs.

Mallacoota is still an open and free society and has a good mix of those cultures. During my time at school there were never racial intolerance problems. Some of

my closest friends come from a vast array of different backgrounds.

Any actions of racial and religious intolerance should not be condoned. The question most people are asking is whether the legislation is the way to deliver real outcomes. In Victoria and Australia there is a range of different legislation under which action can be taken: the Crimes Act, the Summary Offences Act, the federal race laws and the Equal Opportunity Act.

I noted with interest some of the previous contributions to the debate, particularly that made by the honourable member for Footscray, who said that the opposing views to the bill were radical and the views of those people who were entering the public debate on the bill were radical because they opposed the bill. I am sure that those groups and individuals who have actively campaigned against the bill would not see themselves as radical groups — for example, I would not call some of the more established church groups radical groups. I do not see Liberty Victoria as a radical group, or even the free speech organisations. I am sure most of those organisations would take offence at being labelled radicals.

Is prosecution or taking complaints to the Equal Opportunity Commission the best method of removing racial and religious vilification from our society? I say no. I believe that prosecution or complaint action will further divide or marginalise the views behind that action. More than likely it will also give a platform to those in society who would prefer that those with opposing views be further divided and stay divided.

Employers' liability also needs to be addressed. What do employers need to do to protect themselves from vicarious liability? What sorts of education and instruction programs do they need to put in place to protect themselves? I pose the question: what would happen if an employer sacked someone in their employment whom they knew could potentially place them at risk of vicarious liability? Would they then potentially be at risk under the Equal Opportunity Act for dismissing someone because of a racial view? That needs to be cleared up.

The government has received 5000 submissions to the discussion paper. I ask the minister when summing up if he could break down the content of those submissions and explain the make-up and the points of view raised. How many people who put submissions in opposed the legislation? How many people opposed particular parts of the legislation? Have the majority of issues raised in those submissions been addressed by the changes in the bill?

I refer to the bill. Clause 7(1) states:

> A person must not, on the ground of the race of another person or class of persons, engage in conduct that incites hatred against, serious contempt for, or revulsion or severe ridicule of, that other person or class of persons.

Clause 8 contains similar provisions dealing with religious vilification. Yet we are talking about serious racial and religious vilification. Supposedly the bill only covers those serious acts that vilify. However, it includes a number of exemptions or ways in which particular members of society can be exempt from prosecution under the act or excuse their actions. If it is only for serious acts of racial or religious intolerance or vilification, there should be no exemptions because we should not tolerate any serious religious or racial vilification.

A number of speakers raised the freedom of speech aspect and I do not need to bring that up. This legislation is not the best way to deliver what we all want to achieve: a more harmonious and tolerant society. Those are the reasons I am opposing the bill. I believe the committee stage of the bill will be interesting. A number of amendments will potentially better protect some parts of the bill. I do not believe this is the best way to approach intolerance.

Dr NAPTHINE (Leader of the Opposition) — I rise to outline the reasons why I will be supporting the legislation, with the amendments proposed by the honourable member for Caulfield. Along with other people, I have a personal situation to outline. I am a fourth generation Anglo-Australian but I am one of 10 children, which may give away the religion of my parents and myself. One of my sisters is married to an Australian of Chinese extraction, her husband having been born in Sabah. They have three children who are Chinese-Australian. Another sister is married to an Australian of Greek ethnicity and they also have three children.

My best friend, whom I grew up with at primary and secondary schools and who was my best man and is still my best friend, is of Italian extraction. His parents came to Australia after the Second World War. Indeed, his father came to Australia first as a prisoner of war during the Second World War and returned after the war to make an enormous contribution to the local community of Winchelsea in which he lived. To his great pride, and my pride because I consider myself one of his virtual stepchildren, some years ago he was awarded citizen of the year for that local municipality.

With a number of my brothers and sisters married to people of different ethnic backgrounds and with

different communities represented, my family history shows what a multicultural society we have. Our family reflects that multiculturalism in Victorian society.

Victoria is proud of its multicultural community. As do many honourable members, I believe clearly that having this enormous diversity in Victoria adds to our social and cultural diversity, and our economic strengths. People from various multicultural and ethnic communities have made an outstanding contribution to the development of Victoria in education, science, the arts and business, and across all walks of life. It could also be said that Victoria is a very tolerant and harmonious society. Indeed, some people would even argue the legislation is not necessary, given the enormous tolerance that already exists in our society.

I am proud to be a member of the Liberal Party, which can be proud of its own multicultural diversity which is represented in its diverse party membership and in the number of people from different backgrounds who represent the Liberal Party in both houses of this Parliament and in our federal Parliament.

I am proud of the leadership the Liberal Party, particularly in Victoria, has provided in recent years on a number of issues to do with multiculturalism in Victoria, such as the promotion of increased immigration. The Liberal Party in Victoria has strongly promoted that Victoria's multiculturalism is one of its great strengths as a society and a community. I am proud of the way that in recent years it has taken the lead in standing up to some of the extreme views expressed by Pauline Hanson and others from the One Nation party. The Liberal Party in Victoria is seen as one of the leaders in Australia and around the world in standing up to that sort of behaviour.

In discussing the bill it is important to look at its history. Earlier this year a draft bill was circulated by the government and met with widespread condemnation. There was enormous concern raised in the community by various churches, ethnic communities, the Liberal Party and a range of other political parties that the draft bill had gone too far in outlining a regime which was unacceptable in Victoria and which would have caused not increased tolerance but increased division. It was argued that the draft bill lacked commonsense, severely inhibited the freedom of speech in society, had the potential to restrict normal religious practice and had the potential to provide criminal sanctions when people had committed acts without any intention of causing vilification or inciting hatred.

It is important to recognise that it is not that draft bill we are debating here tonight. The government has substantially changed its position from that outlined in the draft legislation. The bill before us today is quite different — substantially, significantly different — from the draft bill. People who do not agree with that have not read the bill closely and do not understand the significant differences.

I would have preferred that the new draft of the bill had been put out as a second draft for further community consultation and debate. Because it is so significantly different from the first bill that caused so much concern in the community the responsible thing would have been to put the next draft out for further consultation and consideration. My views are shared by many others and were expressed by the Catholic archdiocese in recent correspondence, where it said it wished for more time to deal with the legislation. However, the government has seen fit to bring forward the legislation tonight and to try to get it through the autumn session, so we in the Liberal Party opposition have to deal with it.

It is also important to recognise there have been significant changes from the original draft bill. Some of those important changes are the separation of unlawful vilification from serious vilification. Unlawful vilification will be dealt with in a civil manner through the Equal Opportunity Commission while serious vilification will be subject to criminal sanctions. That is quite a significant change from the original draft bill, which dealt only with criminal sanctions. There is a significant widening in the exemptions to include religious purpose, and clauses 24 and 25 make it clear that intent is now important when you are dealing with serious vilification that attracts criminal sanctions. That is one of the issues that was seen as a serious flaw in the draft bill — the issue of intent needed to be an essential part of criminal sanctions.

As a Liberal I have some fundamental beliefs on a number of issues, as does the Liberal Party. Among those fundamental beliefs Liberals hold dear is the freedom of speech. We also have a fundamental belief in the need to protect the rights of individuals and minority groups in our society. Both of those beliefs are significant and fundamental to me and to many people who are attracted to the Liberal philosophy. In many ways the bill throws these two beliefs into conflict. I can understand some people in my party having varying views on how that balance is achieved, or in the view of some people, not achieved by the legislation. I respect the views of the different people within the party. It is one of the great strengths of the Liberal Party — we are able to have those differing views, and

to encompass and accommodate them within the party. We are not like other parties that are dictated to by their factional chiefs and a closed-shop caucus as to how they are to vote on any particular issue.

My view is that while freedom of speech is important in our society, at times society decides that freedom of speech needs to be curtailed for the benefit of an individual or a minority group. For example, we have decided under the rules of defamation that freedom of speech is to be curtailed to protect the rights of the individual not to be defamed in any way, shape or form. We restrict freedom of speech with regard to offensive and abusive language. We say that people are not free to go out in public and use foul language against others. In the broader sense those are restrictions on freedom of speech.

The bill proposes that individuals in Victoria should be protected from vilification on the basis of race and religion. I can understand why that is important to many people. It is something all of us on both sides of the house would oppose, irrespective of how we may vote on the legislation. We would all say that people in Victoria should not be abused or vilified on the basis of their race or religion, and we would all find that sort of behaviour abhorrent.

Some real examples have been given of what happens in the community. For example, currently there is no law to prevent people from handing out anti-Semitic or anti-Jewish leaflets in front of a synagogue, even though it causes offence and abuses and vilifies Jewish people and those of the Jewish religion. People are subjected to systematic and serious vilification on the basis of the fact that they are from an Asian background or belong to a Muslim religion. We would all say that is absolutely unacceptable in our society.

Some people would say that there are already adequate laws to deal with those issues. Clearly the current law does not cover people who are not causing physical harm or using abusive language but are still abusing people through printed material or racially abusing people or vilifying people or inciting hatred or contempt of people. The bill remedies that situation.

Therefore, I accept that there are reasonable grounds for our society to further restrict what is a very valuable right in freedom of speech, on the basis that it may protect minorities and individuals in our society from such vilification and abuse. I recognise that the bill is far from perfect. A number of areas of the bill could be further improved if there were further opportunity for consultation. I strongly commend to the house the amendments proposed by the honourable member for Caulfield. They improve the bill significantly, and the government should adopt them.

Further, the bill alone will not achieve the objectives set out. The bill in itself will not be sufficient to overcome some of the issues I have raised. We have a very tolerant and harmonious society in Australia and in Victoria for the most part. If the bill can go some small way to improving that in some way, it is worth supporting, and that is why I support the bill. It needs to be backed up by community leadership and sound education to ensure that we have a more tolerant and harmonious society in Victoria.

Mr HOWARD (Ballarat East) — It is my great pleasure to speak in support of the Racial and Religious Tolerance Bill. Primarily I do so because I agree with the clearly stated aims of the bill: to promote racial and religious tolerance in the state and to send a message to people in the state that intolerance is inappropriate.

Previous speakers have acknowledged that we have people from a very broad range of cultures living in this state. Most honourable members have accepted that that is terrific; it is great that we have people from such a broad range of backgrounds to help build the state, to add a range of insights into our culture and to build Australia so that it is different from so many other countries around the world that are more limited in cultural input.

We have heard honourable members say that they are pleased that in Victoria and Australia we generally have a very tolerant society. That is fairly much the case. I am sorry that we are talking in those terms. I would rather not be so proud of being a tolerant community but would prefer that we were an appreciative community, appreciating people's different cultures and religious backgrounds and celebrating that. To be proud of being tolerant seems to me very limited and almost to be focusing on the fact that perhaps groups will not get along. I believe we can get along very well as a range of cultures and should celebrate that and work as a community to build upon those opportunities for celebration.

I have been pleased to have had the opportunity to travel to many different countries around the world. As soon as I finished my tertiary education I believed the next appropriate opportunity to extend my education was to travel overseas to a very broad range of countries in Africa and Europe and especially through many of the Asian countries. India was one of my first ports of call and I have gone back there on numerous occasions. It has impressed me that as I have walked down the street so many people have come up to me

and welcomed me — 'Welcome to India', they would say. They have been very positive and warm towards me and they have wanted to learn more about what country I am from, how we do things in Australia and how our lives might be different from theirs.

From time to time I have reflected on whether if people from some of those Asian countries had come to Victoria they would be received so well. I do not believe they would be. I am quite sure that although we are accepting that we are a tolerant society, on many occasions people do not appreciate people from other cultures. For a range of reasons, I do not know whether it relates to their personal insecurities, or what it is, but some people seem to think it is a great opportunity to vilify people on the basis of their race, religion or cultural background. Unfortunately, for many people who have come from different countries, thinking they want to make a new fresh start in Australia and knowing there are great opportunities in this country, those opportunities have been soured by the individual attacks they have faced, or sometimes broader attacks, whether in school grounds or in a range of other places in the general community. We all know it happens. If it did not, the bill would not be necessary.

Clearly there is a need for a measure such as the bill, to make the point that if you step over the line, people who have been hurt by being vilified for racial or religious reasons can take action. They can be empowered to take the opportunity of having a matter conciliated through civil dispute procedures and come out of it feeling that they have some support.

The bill separates two different aspects of how people can hurt or be unkind to others on the basis of race or religion. The government has separated out criminal acts where there might be direct incitement to hatred on the basis of race or religion and incitement to violence. If such actions take place, criminal action can and should be taken against those people. However, if the actions are of a nature not necessarily inciting violence, but are hurtful in the treatment of people, then people can take civil action. The government has separated out two lines of action in two areas of vilification that can and do take place in our community.

I am very pleased to see that the government took up a model that tried to incorporate extensive public consultation. Firstly the government looked at the legislation already in place in other states and took from that the pieces we considered appropriate to include in the legislation and formed a model bill. We then had formal consultations right around the state, including in Ballarat, and by a range of other informal means, where people could provide feedback.

I found it interesting to be very much part of the consultation process in Ballarat. Clearly differences of view were expressed by people from Ballarat. There was strong support from the Central Highlands Regional Multicultural Council, from the Ballarat Asian Australian Association, and from many other groups in our community. The Baha'i community made representations to me, saying, 'We've seen what can happen in other countries. We have come to Australia because of the vilification we have experienced in other parts of the world. We want to feel confident that we can continue to practise our Baha'i religion here in Australia and be protected in doing so'.

A number of individuals from Christian groups have come to see me to say they support the bill. Very little discontent has been expressed by the mainstream Christian churches, which have generally been supportive. I am pleased to have seen general, and in some cases strong, support from my own Uniting Church.

This bill relates to my understanding of Christianity, which is about supporting people across the community through understanding and compassion. However, pockets of people, particularly in Ballarat, have expressed concern about this legislation. A number of people, mostly representing Christian groups that could be described as Pentecostal or evangelical, were very vocal at one public meeting. To my way of thinking, these groups misunderstood the legislation. I am not sure how it started. Perhaps it was a deliberate act, or perhaps it was their misunderstanding that they would be hampered by the legislation and not be able to evangelise or share their views about Christianity.

I have told them that it is my understanding, as many other speakers have said, that that was never the aim of the bill. The bill that is now before the house is different from the model bill, in that we have tried to emphasise that view. Several provisions have been added to the bill, including a preamble and an objects clause, which tries to further clarify the aim of the bill, which is to allow people the right to freedom of speech provided it is used with a sense of goodwill and in a way that will not hurt others. The bill emphasises that people will be able to speak out if they genuinely believe what they have to say is of public interest and if they act reasonably and in good faith.

There is protection for people who do want to share their religious views with others, and I hope that after this bill is enacted the people in my community will gain a greater appreciation of that fact. People need to understand that in speaking out they should observe the

basic Christian premise that one needs to be compassionate and understanding of others.

Overall, this bill is terrific. A number of other speakers have expressed nitpicking views or have picked at the edges of the bill, which has not been helpful. However, the bill has been developed with a great deal of consultation, and I fully support it and commend it to the house.

Mr McINTOSH (Kew) — We live in an imperfect society. Although there is room to improve in a variety of different ways, there are a number of fundamentals on which we agree. Overcoming racial and religious vilification is something to which every person in this house has demonstrated a commitment.

What we are talking about is the process by which we deal with such matters. This imperfect society creates a number of divisions, whether we are talking about education, health or bats in the Royal Botanic Gardens. At the end of the day the issues addressed in this bill produce a commonality, in that all honourable members strive to deal with the problems involved. It gives me enormous pride to know that I am a member of a community in Victoria — in the country of Australia — that is one of the most tolerant in the world, if not the most tolerant. That does not mean that we do not have to address some of the imbalances that occur from time to time.

I also have enormous pride in the public institutions that I have been involved with in the past 20 years, most recently as a member of Parliament and before that as a barrister. At one stage I even worked in the courts as a judge's associate.

All sorts of liberties have been talked about — freedom of speech, liberty of the individual before the law, and the rule of law. These are integral to what this place does and to what I did prior to entering Parliament. I took great pride in the position adopted on race. People like Justice Frank Vincent and Justice John Coldrey worked assiduously for the betterment of Aboriginal Australians. They established the Aboriginal Legal Service and worked with the Legal Aid Commission to set up services to improve the access to justice of Aboriginal Australians in central Australia.

That was also applied elsewhere. For a number of years I shared a suite of chambers with Brian Keon-Cohen, who dedicated 10 years of his life to the Mabo case. Admittedly he did not appear as counsel in the High Court, but he did the original trial, dealt with the original appeal that went to the Queensland Court of Appeal and ultimately appeared before the High Court. I do not know what he was being paid — probably not that much — but he dedicated himself to that process. Ultimately he appeared as a Queen's Counsel in the High Court in the Wik case, and he is now working as the chairman of the Mirimbiak Aboriginal Nations Corporation in Melbourne.

The bar was also committed to the process because it allowed rules to be bent and changed to enable these people to carry them on. It was with an enormous amount of pride that I participated as a member of the bar council in facilitating those processes.

I was also proud of the opportunity the bar council gave me to travel to Papua New Guinea on two occasions, and to Vanuatu on one occasion, to teach the rule of law to young law graduates and practitioners in the company of some fine members of the bar. I also had the great privilege of having eight readers or junior barristers reading in my chambers for a period while I was at the bar. Only one of them was an Australian citizen, six of them came from Papua New Guinea and one was from Vanuatu. It was with pride that I had the opportunity, facilitated by the bar council, to participate in that process.

In this place rarely a week goes by when we do not attend an all-party function concerning multicultural affairs. It might be with Italians, Turks, Greeks or any other nationality. We participate in the process of delivering democracy into their hands, to incorporate them into our tolerant society.

I am also proud of a party that can debate a bill like this in its party room logically and rationally. There was no heat or anger. People put forward a range of views, but ultimately a position was taken, and our leader, Denis Napthine, showed great strength in allowing us all to participate in a free vote. I am proud of my party's performance while in government over the last 30 years or so. In my lifetime there are a number of seminal moments I can recall in relation to racial issues. A previous member for Kew and a former Premier, Dick Hamer, made us the second state in this country to introduce the Equal Opportunity Act, but it had a more expansive application over and above what applied in the South Australian act.

He also introduced the first Minister for Immigration and Ethnic Affairs in this country, and that was Walter Jona, a former member for Hawthorn. Past Prime Minister Malcolm Fraser set up within the office of the Prime Minister the Office of Multicultural Affairs. The first principal of that organisation was Petro Georgiou, the federal member for Kooyong, which I am proud to say encompasses Kew. He set up SBS television — the

Special Broadcasting Service — and passed the original land rights legislation, which dealt with land rights in the Northern Territory.

But most importantly I am terribly proud of what the Kennett government also did while in office. It passed a motion in this house, supported by both houses, and judging by the interjections of the honourable member for Frankston East I doubt that he would have supported it, but at the time it had unanimous support. It was an act of contrition on behalf of the people of Victoria to demonstrate that they were anti-racism. It came out of Jeff Kennett being the first political leader to condemn Pauline Hanson and One Nation. That was a demonstration of our commitment to this sort of behaviour.

I am also proud that the previous Kennett government, when first in office, set up an office for multicultural affairs inside the Premier's department. That has been replicated under the current government, with the Premier also being the Minister for Multicultural Affairs. When Jeff Kennett was Premier, the honourable member for Warrandyte, Phil Honeywood, was the minister assisting the Premier in relation to multicultural affairs. Being a part of the Premier's department gave it an enormous amount of gravitas and the ability to facilitate across all government departments a view that multiculturalism would enhance our diversity and that individuals should be protected. I am terribly proud of my party's participation in this process.

The bill is imperfect in a number of ways, and the Leader of the Opposition has gone through them. They can be enhanced by some of the amendments proposed by the honourable member for Caulfield — for example, the opportunity for the Director of Public Prosecutions to give his consent to any prosecution. But the most important thing is that we are all involved in the process of improving the lot of people, whether it is based upon race, religion or some other disability or incapacity that denies them the opportunity of participating in our modern life.

One would hope that eventually we, as a community, can look at provisions such as clause 24 relating to racial vilification offences, and just delete the word 'racial' and condemn any form of vilification — whether it be on the basis of political persuasion, race, religion or disability. Surely we must condemn the person who intentionally engages in conduct they know is likely to incite hatred, or is likely to threaten, or incite others to threaten physical harm towards another person, no matter what the basis. It is ultimately my hope that we can ignore the issue of race, religion and so on because it is the fact of vilification of another person for whatever the reason that should be rejected.

Mr THOMPSON (Sandringham) — In preparing for an eulogy in Springvale 18 months ago I had occasion to visit the home of the deceased, who was a printer and a Dutch immigrant. On his office wall was a Michael Leunig cartoon with a picture of Fortress Australia on the one hand and a group of people arriving by boat back in the 1970s. There was an exchange of conversation between the two groups, with the people on the boat answering the question asked by saying:

> Yes
>
> all skilled
>
> much expertise
>
> survival, hope, courage, suffering
>
> much valuable knowledge

This person knew struggle, having lived through the Second World War in occupied Holland. On one occasion he saw a young friend's legs blown off in a landmine explosion, and was struck by the fact that the young boy had kept on running.

In terms of the current debate, two extremes can be illustrated. One is reflected in the experiences of an Australian who spent some time in Auschwitz. In her biography, written while recuperating after the war, she narrated her account of what had happened to her and her sister. In the introduction to the book she states:

> This book is filled with events which were true, characters which were real, and history which is accurate.

At the end of the book, just prior to the conclusion, upon being released from the concentration camp, she writes:

> Should we ever be free and lead a normal, human life, we should feel quite happy. Without putting it into words, I presumed that after the mass destruction of Jews, all the anti-Semitism in any possible form will just die in shame.

But that outcome was not to be. This person later worked at the Jewish Holocaust Centre Museum in Selwyn Street, Elsternwick. Among other things it displays a collage of wartime news extracts. In one report dated 18 December 1942, through the AAP and *Argus*, the Peers and the Labour Party condemned what was happening. The Peers in the House of Lords protested:

> … in the name of civilisation against the policy of deliberate extermination of the Polish people —

and they protested against the German treatment of the Jewish race —

> while Labour described Germany's 'avowed aim' to wipe out European Jews as 'history's bloodiest crime'.

One need only read the reports of the addresses of Hitler during that period and in particular the *Sunday Express* of 25 February 1945 where in words that I will not bother repeating before the chamber one saw a level of vilification and hate towards another race that one trusts will never be repeated again. Those are the feelings of that community.

A number of months ago I had occasion to represent this side of the house at a function organised by the Romanian community. Having referred to Aleksandr Solzhenitsyn during my comments, a person came up to me quite excitedly afterwards to say they had a friend at the back of the room who had spent 16 years in a Romanian prison because of their religious beliefs or convictions. When one is speaking about free speech one needs to recognise the importance of balancing the rights of individuals to express a viewpoint while at the same time ensuring that people are not vilified or persecuted because of their religious or racial backgrounds. It is an old saying that the price of liberty is eternal vigilance.

We are fortunate in Australia today in having a range of institutions that have taken 1000 years to establish. We need to be sure those institutions operate to protect the liberties and fundamental human freedoms of the Australian people to think, choose, act, worship and be independent.

I now refer to an opinion given to the opposition during its deliberations upon the matter by Chris Maxwell, one of Victoria's distinguished Queen's Counsel, a former Rhodes Scholar and, as I understand it, a current member of the Labor Party and head of Liberty Victoria who wrote a piece published in the *Age* newspaper which states:

> In fact, existing law already provides a range of different criminal sanctions for racially or religiously inspired speech. Any conduct involving actual damage to property, or threatened or actual violence against a person, is already a criminal offence — as it should be.
>
> Further, such speech will be a criminal offence if it
>
> > incites another person to do something that constitutes a criminal offence —

under the Crimes Act —

> > involves the use in a public place of threatening, abusive or insulting words, or behaviour of an offensive or insulting kind —

under the Summary Offences Act —

> > involves the use of a telephone to menace or harass another person …

Chris Maxwell argues that if the penalties for these offences are inadequate, they should be increased to cover and respond to those circumstances. Mr Maxwell goes on to state:

> The government has responded to concerns about freedom of expression, and has narrowed the scope of the proposed offence. But there is, in Liberty's view, simply no justification for creating a new offence.

Turning to the bill I have a number of remarks to make. I have a particular concern that as a consequence of people exercising their rights under the legislation there might be a reverse outcome achieved where, rather than promoting racial tolerance and harmony, the Equal Opportunity Commission might become an arena or forum in which zealots of one side or another of a debate may choose to act out issues which would otherwise pass by.

Another issue relates to the age of people who might be taken to the Equal Opportunity Commission. I am particularly concerned about young people where a school environment is a more appropriate forum to address matters that might fall within the parameters of the bill rather than the Equal Opportunity Commission.

The exceptions to clauses 7 and 8 outlined under clause 11 state:

> A person does not contravene section 7 or 8 if the person establishes that the person's conduct was engaged in reasonably and in good faith.

There are levels of legal interpretation that mean it could take a day or a week to determine what constitutes 'reasonably' and in whose opinion and within what value framework. In addition, there are these comments in clause 11(b):

> … in the course of any statement, publication, discussion or debate made or held for —
>
> (i) any genuine academic, artistic, religious or scientific purpose;

The government is endeavouring to determine the parameters of what may be appropriate. An opposition amendment strengthens the ambit of clause 11(b) which as it stands at the moment, on my reading of it, is unacceptable. The addition to be moved by the opposition is to include after the word 'held' the words 'or any other conduct engaged in', which would broaden the ambit of the operation of that particular provision.

There is also the issue about any purpose that is in the public interest. It is unclear how broadly that might be interpreted in the days ahead. Clause 11(c) states:

> … in making or publishing a fair and accurate report of any event or matter of public interest.

This may incorporate the role of the press where a journalist who writes a particular article may fall within the ambit of the operation of the act if a strong opinion is expressed. It leads to clause 17 where employers might be held vicariously liable. There is an exception to vicarious liability in the event of an employer taking reasonable precautions. The question arises of what will constitute reasonable precautions. Will it be a sign on the wall of the factory in one language, a sign on the wall of the factory in 15 languages, or a daily, weekly or annual lecture?

The circumstances in which these issues may be resolved are not determined so much by the law of the land as in the words of a prayer in the California legislature: it is noted that men and women are not made wise or strong or moral or decent or compassionate by exterior laws or agencies. It is the spirit of the law that is important in the way that individuals govern their conduct one with another, which will be the determinant of the level of racial and religious tolerance within the wider community.

Australia is a great nation with people from a multitude of countries, such as those in northern, central and southern Europe, Asia, Africa and South America. It is important that we continue to live as a harmonious and racially tolerant community.

Mr RICHARDSON (Forest Hill) — My remarks will be brief. I speak in support of the Racial and Religious Tolerance Bill, and in doing so I say that I do not think it is necessary. It is my view that sufficient safeguards already prevail in existing federal and state statutes.

Honourable members know from experience that they live in the most successful multicultural society, certainly in this country and perhaps in the world. I will not be so bold as to boast that it is the most harmonious society in the world, but it is certainly the most harmonious in our region. We have been able to absorb many people from many different cultures, yet we have not seen race or religious riots like the ones seen in many other places in the world. We need only look to England to see the race riots that have occurred in parts of that country over the past few days, or to Indonesia, where we see religious-based riots occurring in various parts of the country. We have not had any of that.

One may reasonably ask, 'If you perceive there is no need for the bill why would you support it?', to which I answer, 'Why not?'. For me to not endorse the sentiments and symbolism that exists in the legislation would be for me to say to my community that I believe in religious and racial intolerance and support the idea of vilification based on race or religion. One cannot do that in conscience. One has been given a choice. The government has presented the bill to the house, and the opposition can either accept it or reject it. Members of the opposition have differing views, and I imagine members of the government also have differing views. The fact that the bill will probably never be effectively implemented does not have much to do with the issue of whether one accepts or rejects the proposition.

The advice I have received is that if the proposed legislation becomes law it will essentially be unenforceable. The path that has to be followed to obtain a conviction for an offence under the act, which the bill will become, is so tortuous and obscure that there will probably be no prosecutions based on the legislation, just as there have been no prosecutions based on the New South Wales legislation, which is similar to this bill.

That provides yet another rhetorical question: why would you support something that will probably have no effect? Why not? If one opposes the proposition simply because it is probably unenforceable and will probably be ineffectual, why should one — Mr Acting Speaker, I have been handed a note that says 'No minister at the table'. If they don't care, why should I care? It seems to me that the opposition is treating the bill with a great deal more respect than is the government that put it up. They were able to drag someone out of the bar, I see.

Mr Brumby — On a point of order, Mr Acting Speaker, I ask the honourable member to withdraw.

The ACTING SPEAKER (Mr Nardella) — Order! The minister has asked for those words to be withdrawn. I ask the honourable member for Forest Hill to withdraw those words and to then continue his contribution.

Mr RICHARDSON — Of course I withdraw, Mr Acting Speaker. I would not wish to upset the oversensitive honourable gentleman over there.

Ms Asher — On a further point of order, Mr Acting Speaker, there is a longstanding convention of this place that a minister should be at the table. The opposition had a chance to play politics with the minister's absence from the chamber. It chose not to;

instead, it chose to very politely point out that there was no minister at the table. I resent strongly the minister's making those comments about our speaker.

The opposition has played very fairly on this issue. There was no minister at the table and that is not a practice of the house. It is untenable behaviour. The opposition opted to continue to discuss this very important bill rather than move, for example, to adjourn the house. It is disgraceful that the minister took that point of order.

The ACTING SPEAKER (Mr Nardella) — Order! There is no point of order. I ask the honourable member for Forest Hill to continue his contribution.

Mr RICHARDSON — I was observing that the advice I have received is that should the bill become an act — and it probably will — it will essentially be unenforceable because the path towards gaining a conviction under its provisions is so prolonged and tortuous and everything about it is so nebulous that there will probably never be a successful prosecution, just as there has never been a successful prosecution under the New South Wales act.

One could ask the question: if that is so, why does the opposition support the legislation, given that it has said it will not be enforceable, that there will probably never be a conviction in consequence of it, and that the legislation is unnecessary because there are already sufficient laws in Australia to protect minorities and members of particular races and religions that might be under threat?

Why then do you support the legislation? Again, my answer is, 'Why not?'. The government has proposed the legislation; it is for honourable members on this side to respond. As I said, for me to respond by opposing the proposition is to say that I believe in racial and religious vilification, intolerance, the suppression of minorities and so on, and I will not do that.

The legislation is not a threat to free speech because it is essentially unenforceable. It is not an attack upon our fundamental Australian values, but is about establishing a symbol of what we all believe in and putting it into legislation. It has previously been put into legislation in several ways. All the bill does is consolidate and compress into an act a series of heartfelt truths that are part of our free Australian tradition. It has been clumsily done, but nevertheless the bill provides a series of motherhood statements that say one should not be nasty about people's religion; one should not be nasty about people's race; and one should not incite other people to be nasty about other people's religions and racial origins. That is all the bill does.

It will have no effect other than to be a statue in the park that says, 'Here stand the racial and religious virtues of the community'. That is about it. It is essentially a statue in the park that does no harm to anyone. No evil underlies the legislation. It is not necessary but it is not harmful. It is a clumsy symbol of what we hold to be fundamental truths and proper beliefs. While it is not necessary, it has been presented to the house by the government, and I therefore support it.

Mr VOGELS (Warrnambool) — My remarks will be brief. I am pleased to have the opportunity to speak on the Racial and Religious Tolerance Bill tonight. The purpose of the bill is to promote racial and religious tolerance by prohibiting vilification of persons on the grounds of race or religion. The vast majority of Victorians would support those words and no-one would disagree with the sentiments. However, I have concerns about various issues and I will go through a couple of them.

Many other Victorians and I come from different ethnic backgrounds. I was born in Holland and my family migrated to Australia in 1953. Victoria has many indigenous cultures, and there are many people with different religious beliefs. As the Premier said in his second-reading speech, Victoria is the most culturally diverse state in Australia and its rich culture of so many different backgrounds seems to have worked well.

Perhaps the reason it has worked so well is that we do not have any legislation to highlight these differences. I agree that the major means by which we will combat prejudice will be through education. However, we also need to recognise that by bringing to the attention of children the differences between us we are encouraging them to concentrate on these issues. I say, 'Let's be careful'.

Honourable members have been told that the bill is closely modelled on the New South Wales legislation. However, as I understand it from listening to previous speakers, religion is not mentioned in the New South Wales model. Where are the examples of abuse and harassment of a serious nature in Victoria? From what I see it seems to me that ethnic and religious groups congregate in certain areas. I hope we never get in Victoria what they already have in England — a situation where people concentrate in a place like Oldham, which, as we are seeing on the news at the moment, seems to lead to racial troubles.

The bill says that any person who suffers an impairment or is reluctant to make a complaint on their own behalf can do so through another person or representative body authorised to act for them. To me that smacks of informers, do-gooders and third parties getting on the bandwagon, perhaps to make some money later on. It will depend on a person from the Equal Opportunity Commission deciding what is in the public interest, and I believe that will create an incredibly wide and dangerous precedent. I am pleased to see that reference to a private conversation in a private home has been taken out of the legislation, so at least we do not have the thought police, yet.

The bill also provides that it is an offence for an employer to engage in conduct that intentionally incites hatred. Surely if you are out there inciting hatred that is already an offence in criminal law; and surely somewhere it is provided that you are not allowed to practise or be involved in conduct that is likely to cause a breach of the peace.

The other part of this legislation that really concerns me is that employers will be liable for vilification in the workplace that they have not taken steps to prevent. I know some amendments will be moved that might deal with this to some extent, but that one really concerns me. Having been in many workplaces when I was growing up I know that a lot of robust discussions take place in workplaces on all sorts of matters, and I can see the legislation being used by some disgruntled employee who is not happy as an excuse for leaving the firm, tarnishing the reputation of the employer and getting a payout at the same time. You can just see it, 'Make your complaints — no win, no pay'.

In conclusion, even though the opposition intends to move to amend section 25(2), I believe that will open up more problems. I believe it will stifle genuine debate where a cult or some other hot gospeller will not be challenged because of a fear that in genuinely bringing these people to account you could be accused of racial or religious vilification. I know the opposition will move amendments to improve this legislation, but I cannot support it.

Mr MACLELLAN (Pakenham) — I indicate my support for the bill and for the amendments foreshadowed by the honourable member for Caulfield, the shadow Minister for Multicultural Affairs. I believe it is important that the Liberals state their position on the bill. I believe in freedom in speech but I do not believe that it is an absolute freedom; it is curbed. As Mr Galbally, a former member and distinguished leader of the Labor Party in the Legislative Council, used to say, freedom of speech does not encompass standing up in a crowded theatre, crying out 'Fire!' and causing a panic and things like that. We are quite accepting of the idea that freedom of speech is not absolute and does not encompass religious and racial vilification or urging gangs of — —

Mr Spry — Vigilantes?

Mr MACLELLAN — Vigilantes, if one wants to say that, or East German skinheads or Hitler youths to attack unpopular minorities. That is not encompassed in our concept of freedom of speech, so those limits must be observed.

I get the impression, as you must, Mr Acting Speaker, that certain parts of Victoria are a paradise of good relations and that these problems simply do not exist in some parts of the state. I used to suffer similar illusions. I used to believe that children in my electorate were safe. I had a feeling that attacks on children were rare, if ever existing, in my electorate until I found that that was not true: it was simply unreported. I used to believe that the bashing of wives just did not exist, that my people were too nice for that sort of thing, until I found that it was not reported. We have legislation to prevent those things because we need legislation to prevent those things; not because everybody does it, not because everybody is going to be accused of bashing their wives or of sexually assaulting children but because some people do and we need a remedy when it happens.

We need legislation like this for its symbolism. I greatly respect the views of others. Heavens knows, I, too, have had avalanches of faxes from the most unlikely sources giving me advice as to what I should do in relation to this bill. I daresay other honourable members have received similar advice. In part some of that advice is reflected in what I have heard in the course of the debate. I have heard that one of the issues of concern is freedom of speech. I have responded to that by saying that I do not think it is absolute anyway.

I have heard another concern that the legislation is symbolic. I guess a lot of legislation is symbolic. It is about creating an atmosphere of disapproval of racial and religious vilification in the community, and I get the feeling around this house of Parliament that everybody agrees that that is a good thing. It is a good thing that we signal to the community that racial and religious vilification is not on. The disagreement, if there is disagreement, seems to be that some people are worried for employers, for the individuals who are the targets of accusations, and that there might be an unfortunate labelling. If I listen to my friends from the National Party I even hear another argument that the

legislation will be counterproductive because it will create disputes rather than lead to their resolution. I guess that covers the full gamut of responses that can be made to the legislation.

For me, one of the great things about the philosophy of the political party I have the honour to support and be a member of is that we believe in free speech. We believe in conscience votes. We believe in people being able to have differences in opinion. We believe in protecting minorities, in ensuring that minorities are part of and respected in the community, and that the greatest minority of all, the individual, is looked after as well. We do everything we can to ensure that individuals are looked after, that minorities are looked after and that there is plenty of scope for freedom of speech. If good people do not speak about religious and racial vilification then we can be sure of one thing — that is, it will continue to be a problem in certain parts of our society.

I do not think a week goes by in which in our state of Victoria there is not a serious incident of racial or religious vilification — that is, people stylishly urging others to take excessive action against people they perceive as being a minority, an enemy, or something upon which they wish to urge attacks. Whether it was Muslims during the Gulf War; whether it is the Jews who are under constant attack in small parts of our society; or whether it is other religious or racial groups who are the subject of these sorts of actions, the Parliament has to stand up and be counted. When it comes to being counted, I wish to be counted in support of the bill, and I hope it has a successful passage through the Parliament.

Mr SPRY (Bellarine) — The Racial and Religious Tolerance Bill has engendered a considerable level of debate in the community and arises out of a somewhat messy and flawed model bill that was released by the Bracks Labor government in December last year.

The Liberal Party amendments go much of the way to addressing the deep concerns of my electorate. However, I still regard this as impotent legislation that I suspect was designed by the government for political advantage rather than out of genuine concern for oppressed and vilified minorities.

Liberals have worked very hard in the past to secure a climate of tolerance in this society. It is now only the most bigoted and ignorant who seek to destabilise society and who release their bile on those among us who are unable to defend themselves and who, for whatever reason, are subjected to cowardly verbal attack from time to time.

In my brief contribution at 2.00 a.m. I have no wish to trivialise this issue. But in my childhood there was a schoolyard rhyme which went, ‘Sticks and stones may break my bones but names will never hurt me’. In the schoolyard we gave as good as we got, and probably benefited from the exchange. It cleared the air. Most of that banter was relatively harmless, as you would appreciate. By contrast, immediately following the end of the Second World War a good deal of prejudice was evident that was deeply offensive and reflected entrenched bitterness and hatred in some sections of the community.

However, I would have thought that those old prejudices are rapidly fading and that in this day and age in Australia, with our almost open door immigration policy and when scores of different ethnic backgrounds are represented in a far more tolerant Australian society, this sort of bill would consequently have been unnecessary. At best, therefore, I regard this as deeply flawed, ineffective and unenforceable legislation, as one of my colleagues mentioned a moment ago — a view which I believe broadly and emphatically reflects the view of my electorate.

Mr ASHLEY (Bayswater) — I join this debate with a heavy heart. I come from a Christian tradition that places great emphasis upon the sanctity of the individual and from a political tradition that places great stress upon the dignity of the individual.

I am almost persuaded, but not quite; therefore sadly I have to say that I oppose the legislation. It is said by other honourable members that the legislation is clumsy, ineffectual or unenforceable — those things may be true — but it is still legislation that may not be benign.

The way I wish to begin is to go back in time to a situation that may appear quite unrelated to the world in which we live, but I hope that in going through the issues I can show that it is very much related to the world in which we live.

At the time of the Reformation, a Swiss theologian called Erastus put forward a view that there was a form of religion that may be determined by the civil power. In other words, there was the possibility of approved or lawful religions, which invites the logical consequence that there are unlawful religions.

This particular issue of the right of the state to intrude into things religious caused enormous explosions for 300 years. It began with the Lutheran Reformation and the state choosing Luther’s form of religious belief and practice to be the state religion for the areas in which

Luther was influential. Calvin in Geneva had a similar experience; he was able to almost create a theocracy where the civil law was very much ridden along by his theological views.

Each theologian was to a degree antipathetic towards the other. The problem they had with one another was that each said he was right. It was okay then if you were in a state that agreed with you and said you were right, but what happened if you went to a society where the civil power said Lutheranism was the legal and approved religion? What happened to those who had a different belief? That is where those societies got into big trouble, because the civil power enforced the law against faiths that were not Lutheran or Calvinist or some other approved religion in some other part of Europe.

When it came to the English Reformation, Sir Thomas More was put in an invidious position. Given my religious tradition I may not agree with many things Archbishop George Pell may espouse and advocate, but when he gifted the bust of Sir Thomas More to the Parliament I think he was making a point that perhaps has been lost on us up to the present time.

To make my point, I refer to a discussion between Sir Thomas More and Mr Riche, the solicitor to King Henry VIII, over the issue of how the king could take over the role of the church to use the stamp of the civil law to further the form of official religion he decreed. I quote from a book about the Reformation and the different politics of the 16th century:

> 'Admitt there were, Sir, an Acte of Parliament, that all the Realme should take me for King, would you not take me for King?'
>
> 'Yes sir', quoth Sir Thomas More, 'that I would'.
>
> 'I put the case further', quoth Mr Riche, 'that there weare an Acte of Parliament that all the Realme should take me for the Pope; would then not you, Mr More, take me for the Pope?'
>
> 'To your first case', quoth Sir Thomas More, 'the Parliament may well meddle with the stat of temporall Princes; but to make aunsweare to your second case, I will put you this case: suppose the Parliament would make a law that God should not be God, would you then, Mr Riche, saye God weare not God?'

What he was saying was that in matters of religious belief there could be no determination by an act of Parliament. His was a reaction to Erastianism in practice. He was reacting by saying, 'Thus far and no further'.

The English church — the Anglican Church, or the Church of England as it was then — persisted with the view that it was okay if you were in the in group and part of the established church but not okay if you were a Catholic or a Protestant. People had great difficulty with that, and by the end of the 16th century and the beginning of the next century religious groups were splitting off all over the place. Essentially the views of the more radical members of communities were forcing their way through. They were the out groups in society, which included the Puritans, the Quakers, the Baptists, the Independents or Congregationists, and others.

At the beginning of the 1700s a certain John Smyth said in his confession of faith:

> … the magistrate is not by virtue of his office to meddle —

note, the same word Sir Thomas More used —

> with religion, or matters of conscience, to force or compel men to this or that form of religion, or doctrine; but to leave Christian religion free to every man's conscience, and to handle only civil transgressions, injuries and wrongs of man against man in murder, adultery, theft, etc, for Christ only is the King and lawgiver of the church and conscience.

Despite his call, there followed 200 years of strife, recurrent pressure and persecution. Those people were in those times the out groups of society. They were not given recognition, and they were in many ways pilloried as extremists and treated with a degree of contempt, just as we regard some groups today as extremists. These groups of people — Christian societies, if you like — struggled to have their say. It was only resolved when the established order, the state, said 200 years later, at the beginning of the 19th century, 'We give up. You say you're right, they say they're right, and someone else says they're right. We accept that we cannot make judgments on it all because all we are doing is creating constant persecution and strife for you. We have come to the view that you are all accepted, and we will be neutral as between religious faith and religious expression'. This was how the long process of pain, distress and persecution was finally resolved politically.

At the end of the 1820s a remarkable series of events occurred. The acceptance of faith, including the Catholic faith, as legitimate in the United Kingdom — England, Scotland and Wales — happened two or three years before the first electoral reform bill. It was a period of great ferment in that society, and within 30 years of the acceptance of the rights of all people, of whatever religious faith, to be accepted in the community and of the notion that there should be no lawful religion — or rather, that all religions should be lawful — a Jew, Benjamin Disraeli, was appointed Prime Minister of Great Britain. Those remarkable developments were achieved suddenly in a short space of time after 200 or 300 years of strife.

In a book called *The Gathered Community* a fellow called Robert Walton wrote of the Separatists — that is, the non-Anglican groups — that their contribution was:

> … of inestimable importance to the growth of the English way of life —

and I would say to the growth of the Australian way of life. It continues:

> They set forth the principle of human equality, insisting that men, for all their differences, have certain inalienable rights. Every man's personality is sacred and inviolable. Thus they rediscovered the common man, established the right of private conscience, and fought for full civil and religious liberty. Moreover, they emphasised the importance of the smaller fellowship, the community within the nation. They set up Christian societies small enough to allow the individual to find his feet and to make his contribution, and so closely knit as to enable the group to train, guide, discipline and comfort each member of it.

Fellow members, that was the kind of understanding brought into this community in the 1850s that took root here; and so deep was the issue of the separation of state and church that when Melbourne University was established it was not permitted to teach theology, and it is still not permitted to do so. In the 1880s this Parliament passed an act to set up the Melbourne College of Divinity to overcome the problem of allowing the denominations to offer degrees, because the secular university was not permitted to teach theology.

At the turn of the century the new Australian constitution declared that there was to be no role for the state in relation to religious faith and practice.

Coming to the present time, I am almost persuaded; but the problem remaining is still the issue of a civil court making judgments on things religious. If it is out-and-out vilification there is no question that it is off limits. When all is said and done, vilification produces grievous psychological injury. The problem is that there are practices, attitudes, displays and behaviours that will always tend to give offence. The difficulty lies in unwinding that. Christian groups and groups from other faiths are again being confronted by the problem of allowing a secular body to make judgments on or redress issues relating to belief. That is the sensitive area in the bill, and I do not believe it has been resolved either in the bill or in any proposed amendments.

A final area of significance concerns the provisions and exemptions offered to elite groups. They sound innocuous but there is a sense in which to give elite groups exemptions from the consequences of vilification that apply to others is to apply an unequal law or to apply a law unequally. For example, the Andres Serrano photograph called *Piss Christ* caused great distress to hundreds of thousands of Victorians, but it is feasible that Serrano could put up a case that he created the work in good faith without the intention to vilify anyone. Nevertheless, those who take up the cudgels and who are so angry about the photograph and about how in their view it vilifies their faith have no means of gaining redress for their deep hurt — in fact, they may well find themselves up on a charge of either counter-vilification or property damage.

Essentially, coming through all that, the issues involved still leave me unconvinced. There are groups in our society and new faiths that will spring up within the next 5, 10, 15 or 25 years. We do not know what they will be. They may contribute amazingly to this society as it goes along, but if they are cut off because they are not respected by the law-makers and the lawgivers there will be the potential for real strife. That is what concerns me most.

I end by saying that the whole history of the last 400 years or so is not so much the toleration by one group of another, but the toleration of the state towards all. The problem I have is that in making judgment on issues religious, no matter how — —

A government member interjected.

Mr ASHLEY — Certainly, they would be. They would come from certain traditions that are within the in groups, but it is the out groups we are concerned about. The out groups in any society that emerge are always the ones that are put upon. It is not in the state's interest to go making enemies of those groups by taking sides against them. That is the prospect we have here.

I may not fully understand the bill, but there are sensitivities that go deep into the history of our community, all of which we must take into account. Above all, there should be no vilification; no practice of putting down another; no reviling, defiling, denigrating or making vile. I again come back to the point: I do not think the implications of the bill have been worked through fully, and therefore I have to dissent.

Mr McARTHUR (Monbulk) — Honourable members have heard a good deal today from all sections of this house about some of the difficulties of this legislation. There is, of course, undoubted tension between two strongly held rights and values: the freedom of speech, which people hold and have held dear for a long time, and racial tolerance or protection of the rights of the individual, which I and members on this side of the house hold dear. Both of those are strong Liberal principles, and we do an enormous

amount to support, protect and preserve them. There is tension in this legislation between those two things.

Honourable members in discussing the issue of freedom of speech must consider that it is not an unconstrained freedom in Victoria or indeed in Australia. There are limitations to freedom of speech, a number of which all honourable members would be aware of. The defamation laws are a limitation on the freedom of speech. There are laws and sanctions against using abusive language. For example, you cannot go out to a policeman in the street and abuse that policeman because you will face a charge if you do so, as indeed some of our S11 and M1 friends have found in the recent past.

Freedom of speech is not unconstrained; it has been limited a number of times in the past. There are further limitations contained in the legislation, and reasonable constraints imposed by the legislation.

There are those who say the legislation is ineffective, that the sanctions it contains are inoperable and will never be used and therefore there is no point having the legislation. Others say the legislation is pernicious and will be used to suppress those who dissent or have a varying view. They cannot both be right. I guess the truth lies somewhere in between.

If the legislation is ineffective in that the sanctions never come to be used that may in itself be a blessing, but more of that later. If it is ineffective but stands as a symbol, then that symbol may have significant value.

By way of illustration I will tell a personal story. Some honourable members from both sides of the house know my wife. By all accounts she should not have been born. She was born in 1946 in Brussels. She was the first Jewish child born to the Jews in Brussels who had survived the camps. Her mother and her father had both lost their spouses and children in the camps. They had come out of separate camps and had met and married in Brussels. Sophie's mother had been a client, a patient, the victim — choose as you will — of Josef Mengele.

Many honourable members will know that Dr Mengele carried out gynaecological experiments on women, generally without anaesthetic and generally resulting in those women becoming infertile. For that reason Sophie's mother was never expected to have children, but Sophie was born. From my perspective it was very lucky, but from hers amazing.

I never knew Sophie's mother; she was dead before I met Sophie. However, I knew her father and her stepmother. Both were survivors of the camps. I have seen the tattoos on their wrists and I have talked to them about their experiences. I have talked to their friends and colleagues, and the ship-brothers who came out with them to Australia in 1948–49. Many of those people are still alive, and certainly there are significantly more in the next generation.

For those who go to synagogue on a regular basis, it must be extremely confronting as they leave the synagogue on Saturday evenings to face the symbols of the same racism that saw them committed to the camps from the 1930s through to 1944–45 and to see our freedom of speech used as a vehicle to hand out literature and abuse that is similar to that which was employed in the late 1930s in Nazi Germany and which says, 'Jews are pigs and deserve to die', or words to that effect, yet they deal with it on a regular basis.

When I discussed this legislation with them and put the view that some people feel that perhaps the criminal sanctions may not be successfully enforced — from my point of view it would be great if they were never successfully enforced if that meant nobody was doing this — they said the fact that they exist provides some comfort to them and to people from other groups and cultures who face similar situations. If it provides some comfort to them, then it is worth while. If it stands as a symbol to the perpetrators of hate that they should not and will not be allowed to do such a thing in the future, and if that has some impact, then again it is worth while. If no-one is successfully prosecuted I do not mind. If it stands as a symbol, as a line in the sand that says, 'No more of this', then that is enough for me.

Honourable members talked about the way Australian diggers fought for the freedom to speak their minds and for us to have the right to say what we wished. Yes, they did, and one of the most moving events that I have ever witnessed was when my wife spoke at an Anzac Day ceremony in Monbulk some four or five years ago. I think it was the 50th anniversary of D-day.

My wife had been told beforehand that some Brits who had been on the beaches on D-day and had subsequently emigrated would be at the service. She thanked them for what they had done; it meant her family had survived and she now has a life in a free country. The impact of that and the gratitude that those soldiers felt because she had said, 'This is what you have done for my family and I thank you for it', is something I will remember for a long time.

On that basis I think the legislation is worth while. I have met and discussed the issue with people who deny the Holocaust exists or exists to that extent. I cannot convince them otherwise, but we now need to have a

sign that says, 'You may have views that I do not like, but it does not mean you are free to preach them and vilify somebody else or to incite hatred any longer'.

Mr BAILLIEU (Hawthorn) — I support the bill and the amendments foreshadowed by the honourable member for Caulfield. I am not somebody predisposed to the codification of thought, belief or behaviour. I take the view that to codify often leads to a situation where to delegitimise one form of thought or behaviour is to legitimise another form in the same breath. When it comes to vilification there is always the risk of that — that is, to delegitimise certain forms of vilification is to actually legitimise other forms of vilification. That concerns me.

There is a degree of irony that the house is debating the bill when there are enough occasions to attest that this place itself is a place where vilification takes place frequently. There are those practitioners in this place who are effective at their vilification and do so in a political sense, but perhaps people in this chamber are capable of sticking up for themselves. That is always of concern.

The government has chosen to run the flag of tolerance up the flagpole. That is an important flag. It is an Australian flag, hence it is one to be honoured. Tolerance of minorities is an important principle in this country. The reasons for the government doing so may not always be clear in this case or as straightforward as some may imagine.

I do not agree with the honourable member for Footscray, who earlier described the absence of this legislation as a national shortcoming. That is not the case. I accept that this is an important symbol. We need to recognise the strength of symbols such as this in sending a message. I will be supporting it for its symbolic significance, not necessarily for its cogent drafting or the prospect of its implementation.

We take a lot for granted in Australia and we are, as is often said, the lucky country. We take our freedoms for granted and our cultural maturity for granted on many occasions. We take our peace and multiculturalism for granted. Those principles are our national heritage; they are our icons and they are also important symbols that should be protected. When it comes to these matters I do not believe we have the luxury of being semantic about it. I intend to support the legislation on that basis.

I support the bill as the member for Hawthorn — a most diverse and multicultural electorate, with the multicultural Swinburne University at its heart. Hence, I am conscious of the diversity around us. Hawthorn also has some 40 churches, an extraordinary number for one electorate.

Like most honourable members I have had the privilege of attending citizenship ceremonies, which in the city of Boroondara are extraordinary for the diversity of the people seeking to take the pledge. In my view the legislation is symbolic and has the capacity to move those people who take that step, and for those who wish to waltz with Matilda these principles are important. It is important that we live in harmony in this state. In Victoria we have a proud record of tolerance and diversity. We have a state renowned for intelligent and open debate. It is the home of the Liberal Party and the effective home, I suspect many would argue, of the Australian Labor Party, though some would differ.

There has been an intelligent review of the legislation. It represents an educative process and symbolises a fair go in this country.

Victoria is not without its problems. I have heard honourable members cite worst-case scenarios at both ends of the spectrum. Worst-case scenarios can be conjured in the application of the legislation and in its absence. Their are excesses in both realms. Like the honourable member for Monbulk, I hope the truth lies in the middle. I am not disposed to the concerns of the extremes.

The success in Victoria has been because of leadership on these issues. In the past we have demonstrated that by behaviour and by attitude, not by legislative fiat. We have had an openness to the point where members of the public have been frustrated with the continuing discussion. However, it has been an important discussion. In my 20-year association with the Liberal Party the principles here have been profound. I pay tribute to Jeff Kennett, the former Premier, who was perhaps the greatest exponent and champion of these principles. The enormous personal respect he is held in goes to the achievements in this field. He demonstrated an extraordinary depth of leadership in tolerance and multiculturalism. The legacy he left behind is a tribute to his commitment.

Earlier today the honourable member for Pakenham reminded us that the quality of a democracy is not judged by the tyranny of the 51 per cent; it is judged by the way we respect our minorities. I respect that view. It is a view worth celebrating, and I value the wisdom he imparts with it.

My aspiration for the bill is that it be a symbol. I trust it will not be used, and the evidence from interstate suggests that it probably will not be. I will be surprised

and disappointed if it is. If it is used in a way that is seen to be injudicious or vexatious or of a reverse nature, I will be keen to see it amended. I am comforted by the interstate experience. I respect the views of those who have a different perspective. I believe the amendments are essential, and I will support them. I respect the contributions of other honourable members who have indicated considerable concern about some aspects of the bill.

In short, it is a flag of tolerance that has been run up the flagpole. I do not believe we have the luxury of being semantic about it, and I think we have to support the bill.

Mr PLOWMAN (Benambra) — If we were debating and voting on the preamble and the purposes of the bill I would have no difficulty in voting for it. To quote selectively from the preamble:

> … freedom of expression is an essential component of a democratic society and … this freedom should be limited only to the extent that can be justified by an open and democratic society.

It goes on to say:

> The majority of Victorians … are proud that people of these diverse ethnic, indigenous and religious backgrounds live together harmoniously in Victoria.

I have no argument with that at all.

The purposes, and again I quote selectively, are:

> … to promote racial and religious tolerance …

Secondly:

> … to provide a means of redress for victims of racial or religious vilification …

Again, I have no argument with that at all, but unfortunately that is not what we are really debating in this bill. We are debating the provisions that deal with racial and religious vilification. I have to say that it may have been different if the bill had dealt only with racial vilification, as is the case with the New South Wales legislation and, out of interest, as is the case with the Labor Party election promises, which I will quote from its New Solutions summary. They refer to:

> … the introduction of legislation coupled with appropriate education strategies to combat racial vilification —

not religious vilification. It is interesting to see that. I am inclined to say that if it did not include that religious connotation, I would have little or no hesitation in supporting the bill, but I find it very difficult to support it. Although I certainly support the amendments moved by the opposition, I find it impossible to vote for the bill in its current form. I cannot do so because I believe religious faith is based on the right of the individual to espouse his or her beliefs and to promote them in good faith. Although the wording of the religious vilification provision in the bill is almost the same as the racial vilification provisions, it is issues such as motive that make it different.

I will quote from clause 9 of the bill, which states:

> (1) In determining whether a person has contravened section 7 or 8 —

in this case section 8 is the relevant section —

> the person's motive in engaging in any conduct is irrelevant.
>
> (2) In determining whether a person has contravened section 7 or 8, it is irrelevant whether or not the race or religious belief or activity of another person or class of persons is the only or dominant ground for the conduct, so long as it is a substantial ground.

I find that impossible to support. I will instance a case. If you were a member of a family where your children had been inveigled into a cult hiding under the facade of a legitimate religious activity and you wanted to expose that cult for what it was, you would be subject to this legislation and to that clause of it where, despite the fact that your motive was honourable and everyone in the community would support that, your motive is considered irrelevant under the act.

Then there are the exemptions which show that a person does not contravene clause 8 in regard to religious vilification if a person's conduct was engaged in reasonably and in good faith. But what happens to a person once the accusation has been made? It is a case of reverse onus of proof. Once someone is accused, the stigma stays. We have all witnessed instances where, once someone is accused of a sin or a fault and no matter that at a later stage they can reverse that onus and clear their name, that stigma stays with them. I believe particularly in a religious context that is absolutely and utterly unacceptable. This part of the bill has the possibility of creating more harm than it could overcome.

An exemption may also be granted for an 'exhibition or distribution of an artistic work'. I find that very hard to accept as a justifiable reason in a religious connotation for an exemption to be granted. I cannot accept that part of the bill. Nevertheless, I am pleased to see that one of the exemptions is 'in the public interest'. I support that aspect of the bill because it may lead to someone doing what he or she thinks is right — not only for themselves

or their families but also in the best interests of the public.

Clause 12 is a complete contradiction because it provides an exemption in circumstances where it can be reasonably believed that the parties to the conduct desire it to be heard or seen only by themselves, but it does not apply where the parties ought to expect that someone else may see or hear them. How often have we all been in that situation where you overhear or see something that you were not intended to hear or see? How often have you walked past a telephone booth and heard someone talking and, although you have not intended to listen, you have heard what is said? You cannot help it. In that circumstance, how can that person be sure that he is not going to be liable under that provision of the bill? The provision is much too open to give a safeguard to those people who legitimately want to keep that information to themselves but are in fact overheard. I cannot help but think that this is a lawyer's dream come true. With all of these opportunities for litigation the legal profession will have a field day.

Clause 14 deals with victimisation, but the definition is so broad as to include a situation where if a person believes the other person intends to do any of those things — not that they have done it, but purely that they intend to do something — it is determined to be victimisation. It is justifiable for this bill to deal with victimisation, but it is totally unacceptable for the definition to be so broad.

We then get to the vicarious liability of employers and principals. Talk about reverse onus! How can an employer predict the circumstances that will bring about a situation of vilification in his work force? The exemptions are so ill defined as to be almost meaningless. I quote from clause 18 of the bill:

> An employer or principal is not vicariously liable … if the employer … proves, on the balance of probabilities, that the employer or principal took reasonable precautions to prevent the employee or agent contravening this Part.

How do you do that? How do you predict the circumstances where an employee might vilify another employee or someone outside the business? How then can this bill lay the onus on the employer and expect it to be enforceable? I think it is nonsense, and it does not add to the bill at all. I cannot accept that part.

The opportunity is also allowed for a representative body to complain on behalf of a person, provided the representative body has sufficient interest in the complaint. This opens the door to what could be union activity in lodging complaints against employers to drum up a case against unfair dismissal. It is not intended to do that, but it opens the door to allow it to happen. Again, it is one of those areas that I find totally unacceptable.

From a religious point of view, the most oppressive part of the bill is clause 25(2):

> A person … must not, on the ground of the religious belief or activity of another person … intentionally engage in conduct that the offender knows is likely to incite serious contempt for … that other person or class of persons.

Think about the word 'contempt'. I looked in the definitions clause of the bill only to find it is not there. I looked in the *Oxford English Dictionary* and the *Macquarie Dictionary*. The Oxford says that contempt means 'the action of scorning or despising'. The Macquarie says contempt is 'the act of scorning or despising' or 'the feeling with which one regards anything considered mean, vile, or worthless'. That is slightly stronger, but it is hardly a crime justifying a prison term of six months or a fine of $6000 for an individual or $30 000 for a corporation.

There are no exemptions to the clause, which, as I said, might include a parent speaking contemptuously of a religious cult that is attempting to lure his or her children away from the family. The bill has clearly not been thought through, as that would create a totally inappropriate situation.

The bill clearly attempts to ensure that dignity and respect for individuals is effected. It also attempts to protect minorities. Unfortunately, the bill will not achieve those ends, as is the case in New South Wales, which has been quoted often. Before I close I refer to one example as explained to me by Josie Maxwell, the director of the Multicultural Resource Centre in Albury, who has been in Australia for 21 years. She has quoted me plenty of examples of vilification, saying, 'I'd like to see some act that will assist with this'. Honourable members should remember that over most of the years that Josie Maxwell has been in Albury similar legislation has been in place in New South Wales. It just does not work.

She cited the case that arose when the Pauline Hanson diatribe was at its height. Members of the Laotian community in Albury were being vilified by a group of young people aged 15, 16 and 17. The families went to the Multicultural Resource Centre and asked what they could do about it. They brought an action based on that vilification, and but it was found that they did not have sufficient evidence to make a case under the New South Wales legislation, which virtually mirrors word for word what is proposed for Victoria. If it does not work

there, how will it work here? That is an example of a case any such legislation should cover.

The best way to achieve the purposes of the bill would be to include a few extra provisions in the Equal Opportunity Act or vastly amend this version to make it effective and enforceable, including limiting or overcoming the unintended consequences of the religious provisions. I cannot vote for the bill, because I believe it will end up causing more problems than it will solve.

Mr DIXON (Dromana) — I am the last in a long line of speakers on this side, so I will make only a brief contribution. The number of speakers, the range of their views and the passion with which they have spoken are all indicative of the importance members on this side attach to the bill. I note that the speakers on the other side have petered out. Only one of the members on the other side who represent rural electorates has had the guts to speak on the bill. They seem to be hiding from something.

Other than the usual letters and emails, I have had very little feedback from my electorate. There has been little interest in the bill among my constituents. I was surprised about that, because I have a couple of large and growing ethnic groups in my electorate, as well as a large number of elderly and fairly conservative constituents. They have not shown much interest in this bill or even in the model bill, which represented an unusual means of consultation and probably woke up the extremists in the debate.

Honourable members have heard a lot about the importance of free speech. That right of free speech certainly brings responsibilities, and in the past it has been abused, as it sometimes still is. I hope it will not be abused in the future. Other federal and state legislation is said to cover some of these instances of extremism, but the very fact that we have seen examples of extreme vilification shows that the existing legislation has not done the job.

I see this bill as a safety net against extremism. I do not think it will be needed much, because we are a tolerant society, but I am glad it is there. Extremism is probably the biggest threat to free speech. However, it is probably a small price to pay as part of having a democracy, and the bill will protect against that sort of extremism.

Bishop Denis Hart has written on behalf of the Catholic archdiocese of Melbourne. I know him and respect his intellect. I echo his disappointment when he said there was a lack of consultation by the government. The government might protest about that, and there has been a certain amount of guided consultation, but I understand the bishop's disappointment in this. He also raised some serious and considered concerns, and the amendments to be moved by the opposition go a long way towards addressing those concerns.

Finally I ask the government to seriously consider a lot of education in the community on this. There have been some great community education campaigns on all sorts of matters — wasting water, Sunsmart, smoking — and the education of the general community needs to be addressed by the government.

I am proud to be part of the Liberal Party and to have spoken on its behalf during this debate. Our mature approach to the bill is a shining example of the sort of tolerance the Liberal Party seeks to uphold.

Mr BRACKS (Premier) — First of all I thank honourable members from all sides of the house for their contributions to the debate. It has been a considered debate, and while most speakers have spoken in favour of the bill it is comforting to know that, for those who spoke against it, it is the method of achieving greater tolerance for our multifaith and multicultural communities in Victoria that they disagree with. It was comforting that the majority, if not all, honourable members reaffirmed their commitment to opposing racism and opposition to different faiths operating in this state. Although the method was not always supported, the objective certainly was. I welcome the support of both those who oppose the bill and those who support it.

This is a bill whose time has come. It is a reflection of a mature Victoria that it can accept a bill to support what we have in this state and want to enshrine — that is, a multicultural and multifaith community. Of course legislation is only one method of achieving change. Ensuring that we have an effective education system is vitally important. Community aspirations must be adhered to, and as well it must be ensured that legislation keeps pace with the community. What we are doing here is ensuring we reaffirm that we are a multicultural and multifaith community.

The bill also reaffirms that we are overwhelmingly a tolerant, accepting community. It affirms that we are a tolerant, predominantly cohesive society, which accepts people from many different countries — and accepts them better than any other country does. In fact you would have to say that Victoria is a shining light of multiculturalism more broadly, and probably only some areas of Canada can equally claim to be true multicultural societies — that is, societies that learn

from other cultures and take the best parts of those cultures while also having their own cultural aspects as part of their ongoing nature, as we do in Australia.

The bill reinforces the predominantly tolerant and accepting nature of the Victorian community. It also reflects the position of the Victorian community as one that accepts that the majority will should be upheld — that is, the majority will is to have a tolerant, multicultural, multifaith community — and does not uphold the minority view, which regrettably is sometimes expressed by vilification on the basis of race or religion.

The majority of people are having their views expressed in Parliament, and that is important. I reaffirm that point here today in summing up the debate on the bill. The bill keeps pace with community attitudes. If the government did not go ahead with the legislation it would effectively be saying that as legislators we are not keeping up with where the community is. We would effectively be saying we will not reinforce in legislation what the community has already accepted. The community has come to this position, and we as legislators must also come to it. Legislation and education must work hand in hand, and that is what we are doing here.

We have come a long way as a community since the waves of immigration began. Australia had a big wave of immigration from the 1850s onwards, including a period in the 1890s when my ancestors came as immigrants from a non-English-speaking background. It saw a second big wave after the Second World War, and that has enriched us. We have come a long way from those early years when there was considerable vilification in Australia, in country Victoria and in Melbourne. That is not the case today, which is healthy, but we must ensure that legislation keeps pace with community attitudes.

The bill has had a long gestation. A previous bill was in place in 1992 under a previous Labor government and was ready for adoption, but it was not adopted because of the defeat of that government, and regrettably no aspect was changed by the Kennett government over a seven-year period. However, the legislation was in place.

I am pleased that the bill is now before the house. Claims have been made in the house that the government has not adequately consulted. I reject that absolutely. A model bill was out for public exposure at the end of last year and the start of this year. If we had not consulted, we would not have changed it. We did change it; the model bill was different from the bill before the house.

If consultation is about anything, it is about listening to legitimate claims made about aspects of a bill and adapting it for presentation to the house. That is what we have done. I reject the notion that government members have not consulted well. We consulted well through the Parliamentary Secretary to the Premier including Multicultural Affairs, the Honourable Kaye Darveniza in the other place. We did it well through the honourable member for Dandenong, the Minister assisting the Premier on Multicultural Affairs. They crisscrossed the state and went around regional and suburban areas. They held forums and explained what was in the model bill. They listened, and we adapted and changed the proposal. The bill is the result of the consultation process.

The view was expressed that the consultation process was a sham and that we did not change the model bill. The facts do not bear that out. This is an improved bill that has been subject to consultation. We do not make any apologies for that. As I said, the bill had a long gestation. It was a key plank of the then Labor opposition when I was opposition leader, and before then. It was in the Labor policies for the 1999 election campaign. It is therefore a mandated matter that we have now put into legislation, transferring our policies into a model bill and then legislation. We have kept faith, which is what we said we would do in the lead-up to, during and post the election. I am proud to say that the bill is in place today.

The bill was long in gestation because leadership was shown in other states, which have similar legislation in place, but not in Victoria. I am very pleased we have been able to rectify that situation and ensure we have appropriate legislation to prevent racial and religious vilification in the state of Victoria.

The bill is more than just a piece of legislation. Honourable members on both sides of the house have expressed that point of view. Honourable members on this side of the house and the honourable member for Forest Hill expressed it well — the bill helps to define our values. The bill is about sanctions that may or may not be used, but it also sends a message to the community that the laws of this state do not tolerate racial and religious vilification, and therefore it will act as a form of prevention. That is its primary task — to say to people who wish to vilify others that that is against the law and people should not do it because it is not sanctioned by the state. The bill reaffirms our values.

It says the community has moved on. We have developed through waves of immigration and we are a multicultural and multifaith society. However, there are sanctions if people do not accept what has developed over time. It sends a strong message that the majority of Victorians object to a small minority who pursue racial or religious hatred. The majority want their view upheld in the legal system. In short, it shows a maturity in the state that we are able to debate this in the house and have, I hope, majority support for it. It is a bill that will make an enormous difference in Victoria.

Following the extensive consultation process the government has reviewed the model bill, and I will go into some of the matters that were changed as part of the consultation process. The government identified several areas where it felt changes were needed to better serve the aims of the bill while guaranteeing that freedom of speech was not restricted. It wanted to have that important balance in place. The government has included in this bill — it was not in the model bill — a preamble and an objects clause, which were recommended by the consultation process. They were adopted by the government and have improved the bill.

The government has separated the criminal and civil provisions and rewritten the criminal offence to confine it to a specific behaviour, which again was recommended in the consultation period and has been adopted.

An important change is the inclusion of an intent for the criminal provision to ensure that protection of private conduct and conversations is adhered to. The government has made it clear that Internet activity is covered by the legislation. The exceptions have been redrafted to make clear that the ordinary citizen has the right to discuss matters in the public interest and include an exception for religious discussion.

The legislation does not prevent criticism and comment on racial matters or religious issues. It enshrines the right of Victorians to go about their business without being vilified either on religious or racial grounds. As in other states, the proposed Victorian legislation allows public discussion and debate in good faith. This is about Victorians standing up and saying we do not accept abuse and vilification of our fellow Australians because of their race or religion.

In summary, this legislation is only one plank in the government's aim to ensure a tolerant, multicultural, multifaith society in Victoria. It is about prevention and sanctions, yes, but the prevention is as important as the sanctions. The government will also pursue non-legislative measures designed to promote tolerance and mutual respect and to deal with conduct that vilifies. The major means by which this will be achieved is a comprehensive and long-term education campaign coupled with a community-based campaign to promote the concepts of harmony and respect. They will be the key elements following on from this legislation which will be pursued through the Victorian Multicultural Commission and the Victorian Office of Multicultural Affairs, which will lead the state in pursuing whole-of-government multiculturalism. The government is also developing a campaign to inform people of their rights under the legislation.

If we look back at this piece of legislation in 10 or 20 years, all members of the Parliament will be proud that they pursued and adopted it and that it is in place. I do not think it will be a matter of controversy in one year, let alone 10 years. Some of the perceived controversy will be proved wrong, as it has been in other states. It is a piece of legislation whose time has come. It shows we are mature enough as a society to accept and reinforce the will of the majority and to outlaw it and say it is not acceptable to vilify people because of their race and religion.

I thank the Minister assisting the Premier on Multicultural Affairs, the honourable member for Dandenong, on behalf of the government and myself for the work he has conducted on this bill to get it to this stage. He has been a solid support and has been unwavering in his efforts to ensure that honourable members get a balanced piece of legislation. He listened to issues as they arose, and the government adopted some of the matters during the course of consultation, and I thank him very much for that. I thank also the Honourable Kaye Darveniza in another place, who is my parliamentary secretary in my role as Minister for Multicultural Affairs and who, with the minister, ensured that a balanced bill was presented to the house.

Finally, I thank the officers of the Department of Premier and Cabinet — they are not often thanked in this place — and particularly the staff of the Victorian Office of Multicultural Affairs. They have worked very hard on the bill: it has been a major priority for the government and, therefore, for them. I also thank very much the legal branch of the Department of Premier and Cabinet, which has given the government excellent advice throughout the process. I commend the bill to the house. It will make a significant difference to the very mature multicultural, multifaith society we have in Victoria.

House divided on motion:

Ayes, 69

Allan, Ms	Languiller, Mr
Allen, Ms	Leigh, Mr
Asher, Ms	Leighton, Mr
Baillieu, Mr	Lenders, Mr
Barker, Ms	Lim, Mr
Batchelor, Mr	Lindell, Ms
Beattie, Ms	Loney, Mr
Bracks, Mr	McArthur, Mr
Brumby, Mr	McIntosh, Mr
Burke, Ms	Maclellan, Mr
Cameron, Mr	Maddigan, Mrs
Campbell, Ms	Maxfield, Mr
Carli, Mr	Mildenhall, Mr
Clark, Mr	Mulder, Mr
Davies, Ms	Napthine, Dr
Dean, Dr	Nardella, Mr
Delahunty, Ms	Overington, Ms
Dixon, Mr	Pandazopoulos, Mr
Doyle, Mr	Paterson, Mr
Duncan, Ms	Perton, Mr
Elliott, Mrs	Phillips, Mr
Fyffe, Mrs	Pike, Ms
Garbutt, Ms	Richardson, Mr
Gillett, Ms	Robinson, Mr
Haermeyer, Mr	Seitz, Mr
Hamilton, Mr	Shardey, Mrs
Hardman, Mr	Smith, Mr (*Teller*)
Helper, Mr	Stensholt, Mr
Holding, Mr	Thwaites, Mr
Honeywood, Mr	Trezise, Mr
Howard, Mr	Viney, Mr
Hulls, Mr	Wells, Mr
Kosky, Ms	Wilson, Mr
Kotsiras, Mr	Wynne, Mr
Langdon, Mr (*Teller*)	

Noes, 11

Ashley, Mr	Peulich, Mrs
Delahunty, Mr	Plowman, Mr
Ingram, Mr (*Teller*)	Ryan, Mr
Jasper, Mr	Savage, Mr
Kilgour, Mr	Steggall, Mr
Maughan, Mr (*Teller*)	

Motion agreed to.

Read second time.

Committed.

Committee

Clauses 1 and 2 agreed to.

Clause 3

Mr SAVAGE (Mildura) — I move:

1. Clause 3, line 7, omit "20" and insert "17".

It is a renumbering amendment.

Amendment negatived; clause agreed to.

Clause 4

Mr SAVAGE (Mildura) — I move:

2. Clause 4, line 26, omit "or marginalise".

The amendment would omit the word 'marginalise' in paragraph (b). The word does not appear anywhere else, and clause 4(2) makes it clear that the act is to be interpreted so as to further clause 4(1).

Amendment negatived; clause agreed to; clauses 5 to 8 agreed to.

Clause 9

Mr SAVAGE (Mildura) — I move:

3. Clause 9, omit this clause.

The amendment would mean that motive would be relevant in civil as well as criminal matters. Given the ability of the Victorian Civil and Administrative Tribunal to award compensation for damages and the potential consequences for people's reputations if they are found guilty of conduct of this sort, it is important that motive always be relevant.

Amendment negatived; clause agreed to; clause 10 agreed to.

Clause 11

Mrs SHARDEY (Caulfield) — I move:

1. Clause 11, line 26, after "held" insert ", or any other conduct engaged in,".

This amendment would meet the concern of the Catholic Church to give an exception covering conduct as well as any statement, publication, discussion or debate.

Mr PANDAZOPOULOS (Minister assisting the Premier on Multicultural Affairs) — The government supports this amendment.

Amendment agreed to; amended clause agreed to.

Clause 12

Mr SAVAGE (Mildura) — I move:

5. Clause 12, lines 7 to 10, omit sub-clause (2).

The effect of this amendment would be not to require people who thought their conduct was private reasonably to expect that it might be heard or seen by someone else.

Amendment negatived; clause agreed to; clauses 13 to 15 agreed to.

Clause 16

The CHAIRMAN — Order! Amendment 6 from the honourable member for Mildura is consequential upon an earlier amendment that has been lost, so he cannot proceed with it.

Clause agreed to.

Clause 17

The CHAIRMAN — Order! Amendment 7 in the name of the honourable member for Mildura refers to two clauses. We will have to treat them separately.

Mr SAVAGE (Mildura) — I move:

7(a). Clause 17, omit this clause.

The purpose of this amendment is to omit that clause because it would make employers liable for civil complaints.

Amendment negatived; clause agreed to.

Clause 18

Mr SAVAGE (Mildura) — I move:

7(b). Clause 18, omit this clause.

Mrs SHARDEY (Caulfield) — I move:

2. Clause 18, line 9, before "An employer" insert "(1)".

3. Clause 18, line 10, after "Part" insert "(other than section 7 or 8)".

4. Clause 18, after line 15 insert —

'( ) An employer is not vicariously liable for a contravention of section 7 or 8 by an employee employed at any workplace ("the relevant contravention") if the employer proves, on the balance of probabilities, that at the time of the relevant contravention —

(a) the employer was not aware of any previous contravention of section 7 or 8 by any employee employed by the employer at that workplace; or

(b) the employer was aware of a previous contravention of section 7 or 8 by an employee employed by the employer at that workplace and the employer had taken reasonable precautions to prevent the relevant contravention occurring.

( ) A principal is not vicariously liable for a contravention of section 7 or 8 by an agent ("the relevant contravention") if the principal proves, on the balance of probabilities, that at the time of the relevant contravention —

(a) the principal was not aware of any previous contravention of section 7 or 8 by the agent; or

(b) the principal was aware of a previous contravention of section 7 or 8 by the agent and the principal had taken reasonable precautions to prevent the relevant contravention occurring.

( ) In this section, **"workplace"** means any place where a person attends for the purpose of carrying out any functions in relation to his or her employment.'.

I call upon the Minister for Gaming to explain to the house the implementation of clause 18.

Mr PANDAZOPOULOS (Minister assisting the Premier on Multicultural Affairs) — The government opposes the amendments proposed to clause 18, predominantly because they would change what already exists and has been understood in the Equal Opportunity Act in terms of employers' vicarious liability. We believe it is inconsistent to have a different definition obligation for employers under vicarious liability compared to all other provisions in the Equal Opportunity Act.

I understand the clause is exactly the same as a clause that was introduced by the previous government into the Equal Opportunity Act in 1995, and that has worked well, but I can assure the opposition that the government is very much focused on how it can support employers in relation to this obligation. They have obligations already under the Equal Opportunity Act with regard to, for example, sexual harassment, racial or religious discrimination, and discrimination on the basis of disability or age, so these sorts of provisions already exist for employers in the normal course of their business.

They have policy manuals about these sorts of things and educate their staff about them, and we will obviously be expecting, if clause 18 remains as the government has introduced it, that employers will also have policies about vilification on the basis of race and religion. We will, though, from this time for the next 6 to 12 months, give employers an opportunity to adjust and understand what this is about and will support them in that, as well as in the preparation of a pro forma which will be very informative and will assist them in understanding this provision. High-quality information will also be available for employers as part of their obligations. We will obviously do a marketing and promotional effort, because employers need to know what the obligations are under this act. That is the assurance I give to the Liberal Party on that matter.

Mr MACLELLAN (Pakenham) — I wish to raise one matter briefly with the minister and ask that he look into it while the bill is between here and another place.

I instance to the minister the case of an employer who has a single employee and perhaps a temporary one, somebody working around the house, somebody genuinely employed but perhaps only for a short period or one day a week or something like that. For heaven's sake, what are we expecting — that an employer present the person who comes to mow the lawn with a pro forma saying he must not indulge in racial or religious vilification?

I suggest that this provision be looked at while the bill is between here and the other place with a view to establishing the minimum number of employees before this sort of thing comes into effect. It seems to me that this provision is a nonsense for an employer who employs, for instance, a single employee, and that could be a farming situation, an urban situation or dozens of other situations. I think we are making a nonsense out of something where with a more sensible rule devised between here and the other place we could have a better approach to the matter.

Mr PANDAZOPOULOS (Minister assisting the Premier on Multicultural Affairs) — There has been some discussion with the Liberal Party, albeit briefly, on the matter. With the government's clause 18 the obligation on the employer is simply to have a process. It is part of the attempt to educate and minimise the chance of an incident occurring in a workplace rather than waiting for something to happen and an employer acting on it. It is more of a procedural process to protect employers. They do it for sexual harassment and racial and religious discrimination areas. Nonetheless, there will be an opportunity for discussion on these matters. However, the assurances I gave the chamber on those previous matters are the ones agreed as part of our discussions.

Mrs Shardey's amendments negatived.

The CHAIRMAN — Order! The final question on clause 18 is that clause 18 stand part of the bill. The honourable member for Mildura should vote 'no' in terms of his amendment 7.

Mr Savages amendment negatived; clause agreed to.

Clause 19

Mr SAVAGE (Mildura) — I move:

8. Clause 19, line 6, after "person" insert "(unless that person is a child)".

9. Clause 19, lines 15 to 20, omit sub-paragraphs (i), (ii) and (iii) and insert "a parent of the child on the child's behalf.".

The effect of this amendment would be that claims by children could only be made by parents on their behalf.

Committee divided on Mr Savage's amendment 8:

Ayes, 2

Ingram, Mr (*Teller*)	Savage, Mr (*Teller*)

Noes, 76

Allan, Ms	Langdon, Mr (*Teller*)
Allen, Ms	Languiller, Mr
Asher, Ms	Leigh, Mr
Ashley, Mr	Leighton, Mr
Baillieu, Mr	Lenders, Mr
Barker, Ms	Lim, Mr
Batchelor, Mr	Lindell, Ms
Beattie, Ms	Loney, Mr
Bracks, Mr	McArthur, Mr
Brumby, Mr	McIntosh, Mr
Burke, Ms	Maclellan, Mr
Cameron, Mr	Maughan, Mr
Campbell, Ms	Maxfield, Mr
Carli, Mr	Mildenhall, Mr
Clark, Mr	Mulder, Mr
Davies, Ms	Napthine, Dr
Dean, Dr	Nardella, Mr
Delahunty, Mr	Overington, Ms
Delahunty, Ms	Pandazopoulos, Mr
Dixon, Mr	Paterson, Mr
Doyle, Mr	Perton, Mr
Duncan, Ms	Phillips, Mr
Elliott, Mrs	Pike, Ms
Fyffe, Mrs	Plowman, Mr
Garbutt, Ms	Richardson, Mr
Gillett, Ms	Robinson, Mr
Haermeyer, Mr	Ryan, Mr
Hamilton, Mr	Seitz, Mr
Hardman, Mr	Shardey, Mrs
Helper, Mr	Smith, Mr (*Teller*)
Holding, Mr	Steggall, Mr
Honeywood, Mr	Stensholt, Mr
Howard, Mr	Thwaites, Mr
Hulls, Mr	Trezise, Mr
Jasper, Mr	Viney, Mr
Kilgour, Mr	Wells, Mr
Kosky, Ms	Wilson, Mr
Kotsiras, Mr	Wynne, Mr

Amendment negatived.

The CHAIRMAN — Order! Amendments 8 and 9 were moved together, but because the committee divided on amendment 8 I am now required to put amendment 9 circulated in the name of the honourable member for Mildura. The question is that the words proposed to be omitted stand part. The honourable member for Mildura and those who support his amendment should vote no.

Amendment negatived; clause agreed to; clauses 20 to 22 agreed to.

Clause 23

The CHAIRMAN — Order! Mr Savage's amendment 10 was consequential on a previous amendment that was negatived, so the committee will not proceed with the amendment.

Clause agreed to.

Clause 24

Mr SAVAGE (Mildura) — I move:

11. Clause 24, line 3, omit "(the offender)".

The effect of the amendment is to transfer the focus of intent in criminal offences from intent to engage in conduct to intent to vilify.

Amendment negatived.

The CHAIRMAN — Order! As his amendment 11 has been lost, the honourable member for Mildura cannot move amendments 15, 17 and 21 standing in his name, because they are consequential.

Mr SAVAGE (Mildura) — I move:

12. Clause 24, lines 5 and 6, omit "intentionally engage in conduct that the offender knows is likely" and insert "engage in conduct with the intention of".

Amendment negatived.

The CHAIRMAN — Order! As amendment 12 has failed, the honourable member for Mildura cannot move amendments 16, 18 and 22, which are consequential.

Mr SAVAGE (Mildura) — I move:

13. Clause 24, line 7, omit "to incite" and insert "inciting".

Amendment negatived.

The CHAIRMAN — Order! As amendment 13 has failed, the honourable member for Mildura cannot move amendment 19, which is consequential.

Ms Davies — On a point of clarification, Madam Chairman, amendment 1 standing in my name amends clause 24, line 6. Should it not be discussed at this stage?

The CHAIRMAN — Order! No, we are not yet up to that. It is on a subsequent page.

Mr SAVAGE (Mildura) — I move:

14. Clause 24, line 9, omit "to threaten, or incite" and insert "threatening, or inciting".

Amendment negatived.

The CHAIRMAN — Order! As amendment 14 has failed, the honourable member for Mildura cannot move amendment 16.

Mrs SHARDEY (Caulfield) — I move:

5. Clause 24, page 16, after line 6 insert —

"( ) A prosecution for an offence against sub-section (1) or (2) must not be commenced without the written consent of the Director of Public Prosecutions.".

The CHAIRMAN — Order! The honourable member for Gippsland West has an identical amendment standing in her name.

Ms DAVIES (Gippsland West) — I support the amendment moved by the honourable member for Caulfield, which is identical to an amendment standing in my name. It provides that the prosecution for an offence must not be commenced without the written consent of the Director of Public Prosecutions.

Mr PANDAZOPOULOS (Minister assisting the Premier on Multicultural Affairs) — The government will be supporting the amendment.

Amendment agreed to; amended clause agreed to.

Clause 25

Mr SAVAGE (Mildura) — I move:

17. Clause 25, line 8, omit "(the offender)".

Amendment negatived.

Mrs SHARDEY (Caulfield) — I move:

6. Clause 25, line 24, omit "(the offender)".

7. Clause 25, lines 26 and 27, omit "intentionally engage in conduct that the offender knows is likely to incite" and insert "knowingly engage in conduct with the intention of inciting".

Concern was raised by Bishop Hart, who said about clause 25(2):

> If there is to be an offence it should be limited to those cases in which a person engages in conduct with the intention of inciting contempt or ridicule. It should not occur simply where there is an intention to engage in conduct which is known to be likely to have those consequences.

Mr PANDAZOPOULOS (Minister assisting the Premier on Multicultural Affairs) — The government accepts the amendments.

Amendments agreed to.

The CHAIRMAN — Order! Because the honourable member for Caulfield's amendments have been agreed to by the government, as I have said, the honourable member for Mildura's amendment 22 is redundant.

Mrs SHARDEY (Caulfield) — I move:

8. Clause 25, page 17, after line 10 insert —

"( ) A prosecution for an offence against sub-section (1) or (2) must not be commenced without the written consent of the Director of Public Prosecutions.".

The amendment is self-explanatory

Ms DAVIES (Gippsland West) — Amendment 2 standing in my name is identical to the amendment that has just been moved by the honourable member for Caulfield. I ask that the house support the amendment. Again, a prosecution must not be commenced without the written consent of the Director of Public Prosecutions.

Mr PANDAZOPOULOS (Minister assisting the Premier on Multicultural Affairs) — The government will support the amendment standing in the name of the honourable member for Gippsland West and moved by the Liberal Party.

Amendment agreed to; amended clause agreed to; clauses 26 to 31 agreed to.

New clause

Mr SAVAGE (Mildura) — I move:

25. Insert the following new clause to follow clause 10 —

"A. ***Events or matters of public interest***

A person does not contravene section 7 or 8 if the conduct engaged in by the person is the making or publishing of a fair and accurate report of any event or matter of public interest.".

New clause negatived.

Preamble

Mr SAVAGE (Mildura) — I move

26. Preamble, paragraph 2, omit "The majority of Victorians embrace the benefits provided by this cultural diversity and are proud that people" and insert "People".

27. Preamble, paragraph 3, omit "Vilifying conduct is contrary to democratic values because of its effect on people of diverse ethnic, Indigenous and religious backgrounds. It diminishes their dignity, sense of self-worth and belonging to the community. It also reduces their ability to contribute to, or fully participate in, all social, political, economic and cultural aspects of society as equals, thus reducing the benefit that diversity brings to the community.".

Amendments negatived; preamble agreed to.

Reported to house with amendments.

Report adopted.

Third reading

The SPEAKER — Order! The question is:

That this bill be now read a third time.

House divided on question:

Ayes, 68

Allan, Ms
Allen, Ms
Asher, Ms
Baillieu, Mr
Barker, Ms
Batchelor, Mr
Beattie, Ms
Bracks, Mr
Brumby, Mr
Burke, Ms
Cameron, Mr
Campbell, Ms
Carli, Mr
Clark, Mr
Davies, Ms
Dean, Dr
Delahunty, Ms
Dixon, Mr
Doyle, Mr
Duncan, Ms
Elliott, Mrs
Fyffe, Mrs
Garbutt, Ms
Gillett, Ms
Haermeyer, Mr
Hamilton, Mr
Hardman, Mr
Helper, Mr
Holding, Mr
Honeywood, Mr
Howard, Mr
Kosky, Ms
Kotsiras, Mr
Langdon, Mr (*Teller*)
Languiller, Mr
Leigh, Mr
Leighton, Mr
Lenders, Mr
Lim, Mr
Lindell, Ms
Loney, Mr
McArthur, Mr
McIntosh, Mr
Maclellan, Mr
Maddigan, Mrs
Maxfield, Mr
Mildenhall, Mr
Mulder, Mr
Napthine, Dr
Nardella, Mr
Overington, Ms
Pandazopoulos, Mr
Paterson, Mr
Perton, Mr
Phillips, Mr
Pike, Ms
Richardson, Mr
Robinson, Mr
Seitz, Mr
Shardey, Mrs
Smith, Mr (*Teller*)
Stensholt, Mr
Thwaites, Mr
Trezise, Mr
Viney, Mr
Wells, Mr
Wilson, Mr
Wynne, Mr

Noes, 10

Ashley, Mr
Delahunty, Mr
Ingram, Mr (*Teller*)
Maughan, Mr (*Teller*)
Plowman, Mr
Ryan, Mr

Jasper, Mr
Kilgour, Mr
Savage, Mr
Steggall, Mr

Question agreed to.

Read third time.

Remaining stages

Passed remaining stages.

STATUTE LAW AMENDMENT (RELATIONSHIPS) BILL

Council's amendments

Returned from Council with message relating to amendments.

Ordered to be considered next day.

Remaining business postponed on motion of Mr PANDAZOPOULOS (Minister assisting the Premier on Multicultural Affairs).

House adjourned 4.13 a.m. (Wednesday).