

## FREEDOM OF SPEECH

### *Motion*

**HON SIMON O'BRIEN (South Metropolitan)** [11.50 am] — without notice: I move —

That this House supports the principle, “We may disagree with what you say, but will defend your right to say it”.

I am Australian. I was born in Western Australia only 55 years ago. My father was born here 108 years ago. I am no less Australian than anybody, but neither am I any more Australian than so many other people who came here and became Australians as displaced persons from post-World War II Europe, or on leaky boats from Vietnam in the 1970s, or searching for opportunity, sanctuary or family reunion at any time, let alone the descendants of those people who came here maybe 40 000 years ago. The things that identify us as Australians include a genuine self-identification with the nation; a desire to share in the lifestyles, benefits and opportunities that Australianness brings; and a strong identification with and a desire to share in—particularly for our families—the future of a country whose blessings are the envy of many in less happy corners of the world. I enjoy shared ownership of all that. As a member of Parliament I also have a responsibility to protect the rights and freedoms that shape the Australian identity. Our rights and freedoms derive from a number of sources, ancient and modern. Australians probably do not spend much time contemplating that; we just get on with exercising our freedoms and prerogatives in the course of everyday life in a civilised and tolerant society.

Despite the nearly universal proclivity for humans to view different races, cultures and behaviours with suspicion, even hostility, the Australian community has developed a genuine willingness to accommodate diversity. If I were asked to nominate a single value that defines all that is good and positive about the Australian identity, I would offer three words: “a fair go”. What does a fair go mean? It is a bit like trying to define justice—it is hard to define, but it is pretty easy to notice when it is absent. It is incredible that, with the prospect of some of the fundamental traditions that they hold dear under attack, Australians are facing legal action if they speak up in defence of those traditions. The well-known saying, “I disapprove of what you say, but I will defend to the death your right to say it” is usually attributed to François-Marie Arouet under his pen name Voltaire. However, research led by Dr Garson O’Toole traces the expression to historian Evelyn Beatrice Hall, writing under the pseudonym S. G. Tallentyre. In 1906, Hall coined this memorable phrase as a “Voltairean principle” which derives its origin from a comment by Voltaire about the tribulations facing Claude-Adrien Helvétius in 1759. Helvétius had written a controversial book which was ordered by the French Parliament to be burnt, an order carried out by the public hangman. Hall claimed later that she had been paraphrasing Voltaire’s words in his *Essay on Tolerance*, which states: “Think for yourselves, and let others enjoy the privilege to do so, too.” Regardless, this noble sentiment, eloquently presented by Evelyn Beatrice Hall, is one with which many would identify.

Freedom of speech is not absolute, of course. The law rightly provides that speech, the cornerstone of all our freedoms, may not be used for purposes which would have the effect of harming the nation or individuals. Quite rightly, there are laws that criminalise incitement to mutiny or the violent overthrow of the government. There are laws to protect private information as well as national security information. Even in the Parliament we set boundaries for ourselves. In support of other rights, we also have anti-discrimination laws. Discrimination is generally defined as the unjust or prejudicial treatment of different categories of people especially on the grounds of race, age or sex. Quite rightly in my view, actions that harass, victimise or incite hatred of individuals or sections of our community have no place in a civilised society. Violent offences—destruction of property, arson, assault—motivated by racial or other prejudices are often referred to as “hate crimes” and are to be deplored. A more recent term I have discovered lately is “hate speech”. I do not as a rule like the newspeak terms inflicted on us by political correctness, and this one looks and sounds very Orwellian indeed.

Already, we are hearing complaints from aggrieved parents and students exposed to a sexual orientation and gender identity program, the appallingly misnamed Safe Schools Coalition: complaints that parents who object to their children being exposed to this campaign are labelled as bullies and accused of hate speech; and complaints that children who do not want to participate in same-sex rallies and the like are admonished and criticised, and called names. Who are the bullies in all this? Who are the real users of hate speech?

I have observed with growing concern recent trends in other places that weigh heavily on my contemplation of these matters. Section 18C of the Commonwealth Racial Discrimination Act 1975 makes unlawful an act that is reasonably likely, in all the circumstances, to offend, insult, humiliate or intimidate another person or a group of people; and the act is done because of the race, colour or national or ethnic origin of the other person or of some or all of the people in the group. We may take no comfort from the terms “reasonably likely” or “in all the circumstances”. As Professor James Allan put it —

... the provision having been interpreted by the courts, bizarrely in my view, as one to be judged through the eyes of a reasonable member of the criticised group. So that more or less means those

claiming to be victims, or playing the victim, will be used as the test of what offends, insults, humiliates or intimidates.

That's bonkers in my opinion. And it's certainly a big constraint on the free flow of opinions and speech. It wholly discounts the need, in any free society, for people to grow a thick skin and not play the victim in order to shut down views they don't like, however articulated.

There is surely no member of any Parliament who does not understand very well that whatever is said in public there is someone who will take affront. It is also a feature of the age that some people all too quickly resort to the assertion, "You have offended me", when they hear something they do not want to hear. Other considerations such as truth, reason and relevance do not come into it. If we take manufactured outrage, mix it with selfish, single-minded activism and charge it with ill-conceived legislation, we end up an outcome that is an affront to all fair-minded Australians. Members of the commonwealth Parliament are aware of the flawed nature of this statute and they ought to address it without delay.

Meanwhile, on 26 September 2013, the Tasmanian Parliament passed the Anti-Discrimination Amendment Bill 2012. Tasmanian anti-discrimination laws already prohibited conduct that humiliates, intimidates, ridicules, offends or insults when it is linked to gender, parental status, marital status, pregnancy, breastfeeding, relationship status or family responsibilities. New amendments extended these protections to the grounds of race, age, disability, sexual orientation, intersex, gender identity and lawful sexual conduct. Some of the additional grounds originally proposed, such as political belief and activity, industrial activity and irrelevant criminal record, were removed in the final version of the act. The Human Rights Law Centre noted in October 2013 —

These "offensive conduct" provisions are of broader application than vilification laws found in other jurisdictions (which serve to restrain hate speech and hate conduct in the public domain) and could be said to be conceptually closer to protections against attribute-based harassment (which focus on the distress caused to individuals by unwelcome conduct that generally occurs in private).

The Human Rights Law Centre had commented previously on the Tasmanian Anti-Discrimination Amendment Bill 2012, stating —

... international human rights law is clear that the right to free speech is not absolute. Free speech must be balanced with our obligations to outlaw hate speech. Hate speech causes real harm and needs to be addressed. However, the HRLC has also expressed concern that "offends" and "insults" are too low a threshold when regulating hate speech through vilification laws.

The Archbishop of Hobart is the respondent to a complaint by an individual to Equal Opportunity Tasmania. The Australian Catholic Bishops Conference has produced a pastoral letter in the form of a booklet titled "Don't Mess With Marriage". I have read the booklet; it is written in dignified, sensitive terms and sets out the case for the defence of the traditional definition of marriage from the point of view of the Catholic Church's contemporary teachings. It will not be popular with those on the other side of the debate because it sets out a very strong case. No doubt other tracts in support of the same-sex marriage lobby exist. People will agree or disagree with either argument as it suits them, but both sides of the argument have a right to be put. The full quote is, "I disapprove of what you say, but I will defend to the death your right to say it". Clearly, the complaint is an attempt to prevent public expression of views with which the complainant does not agree. The important point that needs to be noted is that this is not just about Archbishop Porteous; it is about any of us.

Page 5 of *The Weekend Australian* of 21 November features quotes from Tim Wilson, Human Rights Commissioner, and reads —

Mr Wilson said Tasmania's anti-discrimination law, on which the case is based, "chills" free speech and the outcome may have national implications.

The article further reads that Mr Wilson —

... made a scathing critique of the state law, adding to pressure on the Tasmanian government to amend it to further safeguard free speech.

Mr Wilson said —

"Like the federal Race Discrimination Act, the Tasmanian Anti-Discrimination Act sets a low bar for restricting free speech by defining limits based on vague tests such as 'offend' and 'insult', and also adds 'ridicule'.

"(It) has no exemption for expressions made reasonably and in good faith.

"If it did, it would ameliorate the excesses of the law but would not fix the fundamental rights-violating nature of the law."

“By setting a low bar and prescribing the lawful basis for exercising freedoms, the government has reversed a central pillar of liberal democracy and a free society: that all is legal unless it is specifically made illegal.

“It’s disturbing how seriously underconsidered this reversal is.”

When the Human Rights Law Centre and the Human Rights Commissioner raise such concerns, there appears to be a problem. When the law is used to suppress normal freedom of speech, the problem is manifest. In my view, if a cleric wants to distribute texts or make speeches calling for sailors to mutiny or for the faithful to go out and kill heretics, there is clearly a case for them to be restrained. Conversely, it seems the height of absurdity for Catholic bishops to be hauled before a tribunal for distributing a paper outlining the Catholic position in a debate about a matter of fundamental interest to the Catholic Church and its congregation. Perversely, the architects and supporters of these laws come from a school of thought that has traditionally demanded that society tolerate, embrace and celebrate diversity, but now wants to subvert diversity. It apparently wants a new tradition; a new orthodoxy imposed by law, enforced by instruments of the state, and departure from which, or even the questioning or discussion of which, is prohibited and actively suppressed. That is not a worthy goal; it is base fascism that deserves to, and will be, opposed.

We have the great good fortune to be the inheritors of a civilised and decent society wherein freedom of speech is taken for granted. But freedom of speech is not an inalienable right; it is available to us only to the extent that the restrictions of our society allow it, or, to be blunt, to the extent that we are prepared and able to preserve it. I reserve my admiration for the many Australians whom care enough to raise their concerns about this matter. Those Australians understand what it is about our society that deserves protection, starting with the right to say what one does and does not agree with. That right should be defended.

**The DEPUTY PRESIDENT:** Leader of the House—Leader of the Opposition; I do apologise!

**HON SUE ELLERY (South Metropolitan — Leader of the Opposition)** [12.05 pm]: Soon to be; 16 months, Madam Deputy President, and it will be so.

**The DEPUTY PRESIDENT:** It has been an eventful morning!

**Hon SUE ELLERY:** This is not the usual kind of motion we debate during non-government business. This is an interesting time of the year for us to be debating the philosophical issues the quote in the motion raises. It is interesting to see the government’s priorities in the allocation of its time.

**Hon Nick Goiran:** It’s private members’ business.

**Hon SUE ELLERY:** Indeed. Members opposite are government members, and their priority is to debate this motion.

**Hon Mark Lewis:** So you disagree with it?

**Hon SUE ELLERY:** I think it is interesting that when the government is under pressure to get legislation passed, government members want to debate this motion. That is my point.

Several members interjected.

**Hon SUE ELLERY:** Exactly—that is my point! This is the government’s time and this is what it has chosen to do with it.

Several members interjected.

**The DEPUTY PRESIDENT:** Order, members! I acknowledge that Hon Sue Ellery may have invited that interjection, but she has the call and should be heard in silence.

**Hon SUE ELLERY:** Hon Simon O’Brien noted that our democracy does not allow unfettered freedom of speech. We have lots of laws that constrain what people can say about and to each other. At the core are defamation laws around what can and cannot be said about an individual, laws about not inciting violence and racial hatred, and this house last week passed the Terrorism (Extraordinary Powers) Amendment Bill 2015. That bill included a provision that made it unlawful to advocate terrorism, and “advocate” includes by way of expression or publishing terrorism material. We passed that bill, and we have laws in place about what we can and cannot say to and about each other, for very sound reasons. That is reflective of my view, this Parliament’s view and our community’s view that a person cannot say whatever they want about anything and anyone. To the extent that the quote is, to paraphrase, “We may disagree with what you say, but we will defend your right to say it”, I do not agree that, as a blanket statement, we have done that in practice. The issue in Tasmania was an example raised by Hon Simon O’Brien. All I know about that matter and the Archbishop of Hobart is what I have read in what seem to be numerous emails coming into my email inbox. I have not investigated it, and nor will I. I have to devote my attention to an awful lot of things in Western Australia, and the Tasmanian matter will not get any attention from me. I am perfectly comfortable with not offering blanket protection to anyone to say

anything they want. I am relaxed about it because I live in a democracy in which we do indeed have fettered freedom of speech. It is fettered and qualified within the constraints that the community accepts as being reasonable. In March 2014, Senator George Brandis made a comment that drew a lot of attention about people having the right to be bigots. I do not think our laws have ever reflected that it is anybody's right to be a bigot; in fact, we have laws very much against it. The only comment I really want to make on this is that we do put qualifications on people's right to free speech and I will not accept, on face value, the expression that I will defend everybody's right to say whatever they want, because I will not.

The honourable member referred to the safe schools program. I think he made a comment—he will correct me if I am wrong, I am sure—that it was inappropriately named. I take a very different point of view to that comment about that program. I have received some emails in the last few months from people within the South Metropolitan Region expressing their point of view about that program. I note that the honourable member said that he has been made aware of parents who have been called bigoted and some other names that I cannot remember.

**Hon Simon O'Brien:** Bully.

**Hon SUE ELLERY:** Yes, they have been called bullies because they have expressed some concern about what their children were being exposed to in that program. As far as I am aware, the only schools in Western Australia that currently operate the safe schools program are in the private sector. There are a number—there are two that I am aware of and there may indeed be more—of public schools that are contemplating implementing that program. In my conversations with those schools, they have said that the process they are applying in considering whether to implement the program is whether the program is evidence-based. That will be the determinant of whether they implement the program. The emails I have received are not from anyone who has claimed to have a student at a school that runs the program, and in none of the emails that I have received has any parent said, "I am being accused of being a bully because I object to my child participating in this program." It may well be the case that Hon Simon O'Brien is aware of those emails, perhaps from another jurisdiction, but it is not the case that anyone in Western Australia has said to me that the way that that program is currently being implemented in the private schools within which it is operating has caused them any problem whatsoever. It may well be the case that we get emails from different sorts of people, I am not sure. I would make the point about the safe schools program and how it is running in Western Australia. If members have concerns about it, they should perhaps speak to those private schools that are operating that program now because no issues have been brought to my attention about that particular program being operated in any of those private schools.

**HON PETER KATSAMBANIS (North Metropolitan)** [12.13 pm]: Freedom is not free. For centuries we have known that the price of freedom is eternal vigilance. Since its inception, this country has known about the terrible price that we sometimes have to pay for freedom. Through the Boer War, two World Wars, Malaya, Korea, Vietnam, and in more recent years through the Middle East and East Timor and peacekeeping in the Solomon Islands, and right across the world, Australian servicemen and women have paid an enormous price for the freedoms that we enjoy today. Many have paid with their lives and others have paid with physical and mental scars that will never heal. They paid that price for the freedoms that we enjoy today: the right to live in a democratic society in which we get to choose our government; the right to live in peace on our soil, sadly a peace that many people across the world still do not enjoy today; the right to exercise our religion—we only have to turn on a television, open a newspaper or click on the internet to understand how unfortunately that right is not available to millions and millions of people across the world—and, importantly, the freedom to speak our mind, our freedom of expression and our freedom of speech. They are the freedoms that our men and women have paid the ultimate sacrifice for.

Unfortunately, today our right to freedom of speech is under attack on home soil. Increasingly, people who simply want to express their opinion on the matter are subjected to a whole new series of costs. They are subjected to personal abuse, vitriol and hounding. There are threats, intimidation, threats of violence and very occasionally there is actual violence as well. There is labelling, harassment and, as has been noted, increasingly, there is what is becoming known as "lawfare"—attempts by those people who do not want a debate, those people who do not want their opinions or their orthodoxy subject to scrutiny, to shut down debate by using the chicanery and the trickery of the legal system to take away one of our most fundamental rights, the right to freedom of speech. We saw that most recently with Archbishop Julian Porteous from Hobart, who circulated a pamphlet of his Catholic teachings to parents who send their kids to Catholic schools—normal, well-known Catholic teachings around the issue of same-sex marriage. Not everyone likes those thoughts, ideas and teachings. Some people decided it was not worth debating the Archbishop about it, offering a different point of view and engaging in public discourse. Those people decided that they were going to use lawfare to shut up the Archbishop. That is not support for freedom of speech and freedom of expression. The Archbishop was not inciting violence, he was not being demeaning or rude; in fact, as Hon Simon O'Brien pointed out, his pamphlet was quite moderate. These are the same people—the Catholic Archdiocese—who open their arms to refugees of

all religions and offer Christian charity to people, yet this Archbishop is being shut down and dragged through the courts. I find that offensive in this country. We know it has happened before. It happened to my friend Andrew Bolt who, for his opinion, was dragged through the courts as a thought criminal simply because he had the gumption to stand up and express an opinion that some people did not like. Again, they were not prepared to debate or argue it or point out where he was wrong. Instead they dragged him through the courts of the land, utilising section 18C of the federal Racial Discrimination Act 1975. Section 18C of the federal Racial Discrimination Act is an unfortunate fetter on free speech. It is unnecessary and it goes well beyond the need to restrict incitement of violence or harassment.

I was proud to be a member of the Western Australian delegation to the Liberal Federal Council held in Melbourne in June this year at which our division stood up proudly and moved a motion urging the federal Liberal Party to remove section 18C from the Racial Discrimination Act. Interestingly, it was placed last on the agenda to avoid conflict. We got to it, we debated it, we passed it and not one word was spoken against it. I look forward to the federal Liberal Party removing that abominable section from the Racial Discrimination Act as soon as possible. I am an optimistic person and I know that these attempts to use lawfare to hound down people will be resisted by the Australian public. An example is the recent hounding away of the academic Bjorn Lomborg because he happened to question the orthodoxy of climate science.

Unfortunately, I do not have a lot of time today, but last week I noticed something on the FreedomWatch website that is run by the Institute of Public Affairs Australia of which I am proud member. It is a great freedom fighter for freedom of speech in particular. Published on that FreedomWatch site were the results of a global survey from Pew Research Center. It indicated that Australians have strong support for free speech and free expression. Australia is ranked seventh out of 38 countries that were polled on their attitudes to freedom of expression. The only countries that had a higher support for freedom of expression were the United States of America, Poland, Spain, Mexico, Venezuela and Canada. Interestingly, Venezuela is a country in which those freedoms are curtailed in a more draconian manner so those people know what it is like to want freedom of speech and not have it. It found that 95 per cent of Australians supported criticism of government policies, 56 per cent supported statements that are offensive to minority groups and, interestingly, 62 per cent of Australians supporting freedom of expression even when that expression led to statements that were offensive to their own religion or beliefs, because Australians value the opportunity to debate rather than to be shut down. They value the opportunity to have a proper public discourse rather than to hound away people with threats, intimidation and criticism. Well done to the Institute of Public Affairs for continuing to highlight those figures. One of its great alumni Tim Wilson is now the Human Rights Commissioner who is taking up the fight for freedom. I congratulate him on the job that he is doing.

This topic should be black and white; unfortunately, it is not. Yes, we do draw some limits: do not incite violence, do not lead to direct threats and certainly do not engage in violence, but allow people to express their opinion, argue it, debate it, call them idiots, if you like, point out their stupidity if they are being stupid but do not place a gag on people's ability to express their opinion freely in our democratic society. It is with great pleasure that I support this motion.

**HON LYNN MacLAREN (South Metropolitan)** [12.23 pm]: I, too, want to respond to the motion about free speech and express my deep commitment to free speech. As honourable members have said previously, this is not a black-and-white issue; this is a complicated issue, and we do not have enough time to fully debate it in private members' business because we have only 10 minutes. With my contribution, I want to add a bit more detail so that we know what we are talking about. If we are going to debate this issue, it is important that we are informed accurately. As Hon Sue Ellery said, I, like many members, have had a lot of emails from people who are not from the South Metropolitan Region—in fact, not even from Western Australia—who have been very concerned about this debate in Tasmania. I am still not exactly sure what the issue is for us here, but I wanted to look at the Tasmanian law and see what the issue was in Tasmania. I also downloaded the pastoral letter from Catholic Bishops of Australia to all Australians on the same-sex marriage debate. I have it here with me if members want to see it. At any time I am happy to post it around to people because members can see quite clearly exactly what it is that we are talking about that offended some Tasmanians and caused them to bring it before the Anti-Discrimination Commissioner.

Those advocating that there be no restrictions on the freedom of speech often disregard the damage that words can do. I ask everyone in contemplating the issues regarding same-sex marriage to think a little about what it would be like to grow up as a lesbian, gay, bisexual, transgender and intersex individual in Australia trying to be who they are. It is clear that in some degree the Catholic bishops have considered that because if members look at the very beginning of this document where it says, "Respect for all" the Catholic bishops are acknowledging that every man, woman and child has great dignity and worth, which can never be taken away. Although that is the spirit in which they intended to put out this document, clearly, that has gone horribly wrong because it has

**Extract from *Hansard***

[COUNCIL — Thursday, 26 November 2015]

p9003b-9010a

Hon Simon O'Brien; Hon Sue Ellery; Hon Peter Katsambanis; Hon Lynn MacLaren

---

offended people. In fact, I got a message just now from Martine Delaney who is the Greens candidate in Franklin who has brought forward this case. I want to go through this quickly because I might not get the opportunity if I move on to other matters.

I want to update everyone on what is happening because it has been stated that it is like an over-the-top legal approach. What is happening is what we would expect to happen when someone is offended; when someone is offended, someone says, "Hey, you have crossed the line." In Tasmania, a line is drawn by the law that protects people from discrimination and Ms Delaney said, "That is enough. I am offended by that." What happened then was that Archbishop Porteous publicly stated that he had not intended to offend. Martine wrote to the Anti-Discrimination Commissioner and asked for the matter to be referred to conciliation. Archbishop Porteous and the Australian Catholic Bishops Conference accepted that offer and a conciliation meeting will happen in a couple of weeks. These people who are obviously caught up in this very public debate will sit down across from the other and reach a better understanding, and there could be no better outcome from this. The message from Martine is that she could become annoyed by those who seem to be portraying her actions as a deliberate attempt to stifle freedom of speech and religious expression, but she says that is far from it. In fact, and I share this belief with Martine, she stated in an email to me that the —

... Federal Parliament is abrogating its responsibility by sending marriage equality off to an expensive, non-binding opinion poll disguised as a plebiscite. But, if it is to go that path, then there will be much debate. If our leaders—including the Church—are not mindful of their language, then young people will suffer. There is a wealth of peer-reviewed evidence to suggest young people can be very badly damaged by the type of statements made in the booklet, "Don't Mess with Marriage". Some will fail to prosper at school, some will abuse drugs and alcohol, and some will suffer depression—and some, sadly, may suicide as a consequence of the messages they take from the booklet.

That is reality. That is what the evidence tells us. In her email, Martine goes on to ask that —

... the Church not conduct a debate based on such potentially damaging statements. Basically, that the Church play a part in ensuring the debate is of a ... higher standard, a considerate and fair debate, not one with a lack of respect.

Rodney Croome, who is the 2015 Tasmanian Australian of the Year and is now up for a human rights award, has said —

"This booklet denigrates and demeans same-sex relationships and will do immense harm to gay students and students being raised by same-sex couples."

I do not know whether people are aware but it is intended that this booklet be distributed to 12 000 Tasmanian Catholic school children. This is not a booklet that can be found at the dentist's office, the doctor's, the public library or any place where adults who are interested in same-sex marriage debates might come upon it. This document is being delivered to schoolchildren in Catholic schools in Tasmania. That is part of the concern. Mr Croome goes on to say that this booklet likely breaches the Tasmanian Anti-Discrimination Act 1998, and that there are many people who find it offensive and inappropriate. I agree with the following statement made by Mr Croome —

"The Catholic Church has every right to express its views from the pulpit but it is completely inappropriate to enlist young people as the couriers of its prejudice."

The booklet makes the point that same-sex marriage will destabilise marriage, attack the very soul of marriage, be gravely unjust to children, and violate religious freedom. It makes the point that marriage is a fundamental good; it is a foundation of human existence, and flourishing; and it is a way to join families to each other. It makes the point that the dignity of children means affirming his or her need and natural right to a mother and a father; therefore, messing with marriage is also messing with kids. The booklet goes on to say that, by implication, same-sex partners are not only excluded from the fundamental goods associated with marriage, including child rearing, but are a threat to them. That is what we find offensive about this booklet.

The Tasmanian Anti-Discrimination Act 1998 states in division 2, clause 17, which is headed "Prohibition of certain conduct and sexual harassment" —

A person must not engage in any conduct which offends, humiliates, intimidates, insults or ridicules another person on the basis of an attribute referred to in section 16 ...

It states in section 19, which is headed "Inciting hatred" —

A person, by a public act, must not incite hatred towards, serious contempt for, or severe ridicule of, a person ...

**Extract from Hansard**

[COUNCIL — Thursday, 26 November 2015]

p9003b-9010a

Hon Simon O'Brien; Hon Sue Ellery; Hon Peter Katsambanis; Hon Lynn MacLaren

---

I do not want to go into the details of what is stated in the Anti-Discrimination Act, because that is a matter of public record. I want to quote what was written by someone closer to home—the member for Armadale, Tony Buti—in an article in *The West Australian* in July. The article discusses hate speech. This is what we want to prevent. We all want to prevent hate speech; every member has said that so far. The article states, in part —

Those advocating no restrictions on freedom of speech often disregard the damage words can do.

That is what I have said also. The article goes on to state —

Leading legal philosopher Professor Jeremy Waldron, of New York University, strongly argues in his book *The Harm in Hate Speech* that hate speech should be regulated as part of civil society's commitment to human dignity.

There are those words again—"human dignity". We all seem to agree on that. It continues —

He also argues that offending speech of itself should not be regulated but when hate speech damages the dignity of people, particularly members of vulnerable groups, it should be prohibited.

We need to have a very good and lengthy debate about what is offensive and what should be prohibited. Obviously, we want speech to be as free as possible so that we can express ideas. However, we need to do that cognisant of the impact it has on others. We also need to be cognisant of the fact that other people's lives are different from our own. I have grown up as a lesbian. I am sick and tired of defending that, especially to people who have not grown up like that.

**HON SIMON O'BRIEN (South Metropolitan)** [12.33 pm] — in reply: I can see that I have got people thinking, and I appreciate those members who have taken the opportunity to speak in this debate. What has been teased out during contemplation of this motion is that we are clearly not in agreement on what the free speech debate is about. I think it is good to clarify that at least, and that was one of my aims.

This debate will, no doubt, continue. I fear that it will escalate and that we will see more disquiet in the Western Australian community. I think we will see fundamental attacks on the things that people have taken for granted forever, and that those things will come under pressure and be changed by those who want to change our traditional ways to suit themselves. People will say, "Hang on; you're not entitled to try to change our values and tell us how we should think and how our children should be brought up", and I think we will see responses where people have recourse to discrimination tribunals and equal opportunity commissions and all the rest of it. One thing that we have done today is keep faith with those—in Western Australia, I might add—who want this matter raised in the house so that they know that someone who represents them is taking notice of the genuine concerns that they raise. I would like to thank Hon Peter Katsambanis for his support in that point of view.

One of the themes that I raised in my remarks was tolerance and acceptance. That is increasingly being exhibited in the Australian community. During my lifetime, massive changes have taken place in how our society has evolved to accommodate people who come from different cultural backgrounds or display other differences but nonetheless are responsible and decent members of our community and capable of contributing to our community. That is the point. The point is that everyone has the right to get a fair go. A fair go is not reserved for some. We cannot get a fair go unless everyone gets a fair go. What is potentially a great weakness in our community as it develops into the twenty-first century is that in pursuit of the assertion of rights for some, others will miss out on getting a fair go. I want to say here that I stand foursquare for the principle that parents have the right to determine the influences, moral and otherwise, and behavioural and otherwise, that their children are exposed to. It is not the responsibility or the right of the state, or certain people within the state, to dictate what values will be inculcated in other people's children. It is as simple as that.

I have no doubt that we will be returning to this debate again and again and that references will be made to some of the things that have been raised in it. We will be watching the future of Archbishop Porteous in Canberra and how he gets through the trials and tribulations. As I said in my earlier remarks, it is not about Archbishop Porteous; it is about every single one of us. That includes those of us who are not people of power but just want to get a fair go.

I thank members for their participation in the debate. I want to close with a quote from Robert Menzies, who did recognise what the community wants, and who displayed that in a speech he made in 1942 when he said —

The more primitive the community, the less freedom of thought and expression it is likely to concede.

I think that is probably true. Let us hope that we can continue to progress as a society, rather than regress to some sort of monoculture in which individuality and independence of thought is actively suppressed. I do not think we need all the other apparatus of fascism, which we have fought against in the past. Time will tell. But let us at least try to face the future with confidence.

Motion lapsed, pursuant to standing orders.

**Extract from *Hansard***

[COUNCIL — Thursday, 26 November 2015]

p9003b-9010a

Hon Simon O'Brien; Hon Sue Ellery; Hon Peter Katsambanis; Hon Lynn MacLaren

---