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Sentencing for Hate Crimes Legislative Assembly 15 October 2009

Mr MORRIS (Mornington) — The Sentencing Amendment Bill 2009 is really pretty clear-cut legislation. It requires a court to consider whether an offender is motivated by hatred or by prejudice against a group of people who share certain common characteristics or which the perpetrator thinks the victim might be associated with.

In his press release of 2 June, the Attorney-General said:

The Brumby government believes all Victorians are entitled to feel safe in their community ...

I could not agree more with that. His comment illustrates clearly the difference between the government and the opposition on this matter. The opposition is prepared to act to end the violence which has become rampant on our streets, but I am not quite so sure the government is on the same page.

The reality is that violence is out of control across the state. Last Friday night in Mornington a young father was glassed. There was no provocation; he was simply attacked. The attack severed an artery in his temple, fractured an eye socket and fractured a cheekbone. He required more than 100 stitches, and he sustained injuries that he will carry for the rest of his life. Had the paramedics not been quite so prompt, it would have been a murder investigation rather than an assault investigation — there was 5 to 10 minutes in it. That is not an isolated incident.

I agree that is not the subject of the bill, but I am simply making the point that there are a lot of other things which could have been in the bill as well as the subject we are discussing. The incident I referred to is not an isolated incident, and despite the Attorney-General's belief, which as I said I certainly share, sadly most Victorians do not feel safe in this state.

My point in relation to the bill is that unless people understand there will be serious consequences if they misbehave, then nothing much will change. We have a robust legislative framework, but sadly it is not enforced as frequently as it should be.

Regardless of all of that, the subject before us is not only important from a violence point of view but it is critically important from the point of view of the message we as a Parliament want to send to the community, and that we want to send in particular to people who are engaging in the unacceptable activities that are the subject of the bill. I have had, as I am sure many members have had, many communications regarding the bill which have suggested a variety of alternatives. They extend from suggestions

that the legislation is entirely benign and accordingly unnecessary, to suggestions that there are in fact unforeseen and unintended — but the subtext is really intended but denied — consequences.

From my perspective the discussion is whether the matters to which a court must have regard — that is the matters identified in section 5(2) of the principal act, which include the nature and gravity of the offence, the offender's culpability, the impact of the offence on the victim and so on — are inconsistent with what is proposed in this bill and whether those matters should be extended. The question that has been put to me is, are they inconsistent? My answer to that is, no, they are not. The legislation has been drafted to be relatively broad; it does use the term 'group', but I think necessarily so.

The impetus for this legislation comes from a series of attacks on younger Indians, many of them studying in Melbourne. However, the origins of the legislation do not really matter. The motivation of the attacks on people of Indian origin — and there were 1447 attacks of this kind between 2007 and 2008 — could have been racial or it could have been because, as some people have suggested, the victims were soft targets; however, that suggestion is almost as offensive as the assault. To me the reason for an attack is irrelevant, whatever the reason may be, the targeting of a particular group of individuals is totally unacceptable behaviour.

Free speech is a precious right. We guard it jealously. It is critical in the maintenance of a free society. It is not acceptable in a civil society to use abusive or offensive language simply because you have a different point of view. If you need to resort to that form of argument, you probably have a dubious argument to start with and clearly your case is lacking. Equally it is unacceptable to use violence to settle an argument.

It is unacceptable and abhorrent when disagreement turns to violence. It is even more abhorrent when violence is used in an attempt to intimidate or scare a group of people simply because of outright hatred. Such behaviour is certainly not acceptable to me, and I do not believe it is acceptable to the people of Victoria. For those reasons, the bill has my full support.