



Human Rights Commission

WORDS THAT WOUND

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Expression and Racist Propaganda

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## INTRODUCTION

About one quarter of the complaints on racial matters received by the Commissioner for Community Relations over the past seven years have been about racially derogatory comments or worse directed at an individual or an individual and the community to which he or she belongs. Many complaints received by the Press Council also relate to the publication of material which readers have felt to be defamatory of individuals or groups because of their race.

The Commission felt the problem to be of such importance that it convened a seminar on freedom of expression and racist propaganda to allow people concerned with the problem to meet together and discuss the issues.

The result is the remarkable set of papers reproduced in this volume. The Commission has decided to publish them because it feels that both individually and collectively they represent an important contribution to the discussion.

The first group of papers are remarkable because they provide an insight into the feelings of members of the Australian community who have experienced in themselves and as members of their ethnic or racial group the consequences of membership of that group. The second group of papers analyse creatively and constructively the alternatives, legislative and otherwise, for dealing with the problem. The workshops and the final summing up bring together some hours of thinking and discussion and present some issues which the Commission hopes will be further discussed.

The conference was not intended to reach conclusions or to pass resolutions. Rather its aim, which is now achieved, was to lay before the Commission and the general public a range of

up-to-date opinions on the role of legislation and alternative community measures in combating defamation on racial grounds. One finding that emerged very clearly from the workshops is that an open format is much more appropriate to a discussion of community education than to a dissection of possible legislative options which requires detailed documentation and some knowledge of experiments elsewhere.

The style of the conference was deliberately relatively informal, for formality itself can constitute a form of discrimination against those least accustomed to formal proceedings. It was convened in order to allow members of the minority groups to put forward their case and describe their experiences and their reactions. The Commission was also mindful that the right to freedom of expression is not absolute (as Article 19 of the International Covenant on Civil and Political Rights recognises). Thus, the case for the pre-eminence of freedom of expression in any particular context needs to be subject to rational scrutiny. Hence the invitations to speakers who would detail the nuances of the case for and against legislation.

The debate over this issue involves a classic conflict pitting freedom of expression against freedom from calumny and the reiteration of derogatory stereotypes which provide the rationale for discriminatory behaviour. It is also a debate in which the viewpoint of the majority is, perhaps inevitably, different from that of many members of minority groups. James Baldwin has said that he could never eat watermelon because it had too many derogatory associations. Only an Aborigine can know how much it hurts to be called a boong.

Finally, it is noted as a matter of some interest that the original Racial Discrimination Bill - dated 1973 - contained clauses making it an offence to incite racial disharmony or to disseminate ideas based on racial superiority or hatred (clauses 28 and 29). The incitement to racial

disharmony clause was omitted from the 1974 Bill, but the clause making it an offence to disseminate ideas based on racial hatred was retained (clause 28). The Bill as enacted in 1975 contained neither clause. Ever since the Act came into force, there have been complaints concerning incidents involving such incitement and pleas for some form of legal remedy for individuals and groups who are defamed on racial grounds. Race for the purposes of the Racial Discrimination Act and Convention includes colour, descent and national or ethnic origin.

Interested readers may also wish to consult the Commission's two discussion papers on incitement to racial hatred which were provided as background documents to those participating in the conference.\* Two further papers, one summarising the 1,200 complaints and submissions concerning racist statements made since 1975, and the other examining immediate legislative options, will be available from the Commission soon after this paper has been published.

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Available from A.G.P.S. Bookshops in each capital city.



OFFICIAL WELCOME BY THE HONOURABLE DAME ROMA MITCHELL. DBE.,  
Chairman of the Human Rights Commission

Soon after its inauguration, the Human Rights Commission decided to institute an inquiry into Commonwealth law and practice in relation to Article 19, paragraphs 2 and 3, of the International Covenant on Civil and Political Rights. The inquiry was limited to Commonwealth law and practice because the charter of the Commission is limited to the law and practice of the Commonwealth and the Territories other than the Northern Territory. As all of you here know, Article 19, paragraphs 2 and 3, embodies the right to freedom of expression with the proviso that the only restrictions upon the freedom of expression should be those which are necessary to respect the rights or reputations of others or for the protection of national security, public order, health or morals. Article 20, as doubtless you all know also, prohibits incitement to discrimination, hostility or violence by advocacy of national, social or religious hatred.

These Articles, therefore, raise questions including those of the proper limitation of the freedom of expression by, for example, censorship. The Commission has a duty exercised primarily by the Commissioner for Community Relations to conciliate under the provisions of the Racial Discrimination Act. It receives complaints of alleged racial discrimination. A large number of these are complaints concerning racist propaganda. At present there is nothing which either the Commissioner for Community Relations or the Human Rights Commission can effectively do to stop such propaganda, although sometimes the Commissioner or Commission is able to intervene to induce the person responsible for such propaganda to desist. We have reached the conclusion that some of this propaganda is perhaps the most hurtful barb which members of various ethnic groups endure and that it does engender hatred and

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The question arises, therefore, whether anything, and if so what, should be done either to put an end to it or to counteract it. With this in mind the Commission has sponsored this seminar. The dichotomy is between the precious heritage of freedom of expression - one of the essential freedoms named by President Roosevelt in his famous Four Freedoms speech - and the harm done by racist propaganda. This evening we have invited five speakers from different ethnic backgrounds to tell us of their knowledge, if any, of racist propaganda and of its effects in this country. We wish to set the scene for tomorrow's discussions by listening to some speakers who are experienced in the problems under discussion. We shall have some representation of Aborigines from Ms Pat O'Shane, the permanent head of the Ministry of Aboriginal Affairs in New South Wales. Professor Manuel Aroney, one of the Members of the Human Rights Commission, has had considerable experience of problems encountered in the Greek community. Mr Barry Cohen, a member of the Federal Parliament, may then discuss the problems of racist propaganda as seen by people of Jewish origin. Mr Wellington Lee, the Chairman of the Federation of Chinese Associations, will talk to us from the point of view of the Asian settler; and Senator Missen, who is a member of that group sometimes wrongly called Old Australians and who is, I understand, a fifth generation Australian, will also speak.

Tomorrow morning Mr Al Grassby, the first Commissioner for Community Relations, will place before you his suggestions for possible legislation to combat problems of racism and Mr Creighton Burns, the Editor of "The Age", will probably suggest alternatives which do not require legislation. We shall then divide ourselves into two workshops, one of which will discuss alternatives to legislation and the other what legislation, if passed, should contain. Subsequently, the whole seminar will receive the reports from the workshops and Sir James Gobbo, Justice of the Supreme Court of Victoria and a member of the Australian Council on Population and Ethnic Affairs, has agreed to sum up the discussion. I look forward keenly to hearing the discussion and the whole Commission

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expects to receive guidance from that discussion to assist it in its report to the Commonwealth Attorney-General upon this issue. I welcome all the participants at the seminar and have to say how pleased the Members of the Commission are that there is such a representative gathering here.



FRIDAY NIGHT: COMMUNITY PERSPECTIVES

MS PAT O'SHAN&  
Secretary. Ministry of Aboriginal Affairs  
New South Wales

I have to apologise, particularly to the Deputy Chairman of the Human Rights Commission, Peter Bailey, for not having a prepared paper. I do, however, have plenty to tell you. Peter asked me to give an Aboriginal response to experiences of racism in this country, and one response I have tonight is sheer disappointment that so few people have turned up for this conference. About six weeks ago I came down to Melbourne for another conference and for some time I had been concerned that people in Australia do not talk to each other very much in public. So I thought, this time I am going to speak to the fellow sitting beside me. It turned out he came from the United States of America and in the course of our chat he told me that he thought Australia to be the most racist country that he had ever lived in. He had lived in South Africa, he had lived in Japan and he has lived in Australia for 13 years. Given that situation, given that somebody who is not a born and bred Australian considers that this country is the most racist in the world, then I think it is a very serious indictment of the Australian community that so few people turn up to discuss an issue which is of such great importance.

I want to tell you that this weekend is of very particular interest to me, and I want to give you first of all a couple of experiences which I have had lately. I just want to say that I do feel emotionally fragile tonight. These are the experiences. Last week in Moree an Aboriginal man was shot dead, three other Aboriginal people were wounded by shooting. Subsequently, four non-Aboriginal persons were arrested. I, in company with the New South Wales Minister for Police, had discussions with a large number of community groups, both Aboriginal and non-Aboriginal, for the entire afternoon of Friday and all of Saturday and in the course of our discussion

we had to sit and listen to a number of remarks which I believe were extremely hostile: they were humiliating, they were derogatory and I believe that they were quite deliberately designed to inflame an already volatile situation. In the course of various comments that were made, non-Aboriginal people complained about trouble-makers, about people coming into the town from outside and stirring, about the fact that Aborigines live twenty to two-bedroom houses on the reserves, that they were receiving greater payments and social security benefits than other Australians and so on. Not a single one of those persons expressed the least distress, dismay or concern about the fact that a human being had been killed - not a single one - but on the Friday night I was interviewed and made certain statements to the press which were broadcast very widely. In response, statements came thick and fast with absolute outrage that I should say that the smashing of windows by a group of Aborigines who left the hospital after their comrade was declared dead was perfectly justified in expressing their pain, anguish and sheer anger at the situation in that way. The outrage simply overwhelmed me because, as I say, there was not a single expression of sympathy or concern about the loss of life in the incident that had happened only a few hours before.

Yesterday I was in Moree again. I went across to Collarenabri, which is about a hundred odd kilometres from Moree, and I visited the reserve there. It has been there for so many years. It was established in the days of the Aboriginal Welfare Board. There are twenty six families that live on that Reserve and they live in 13 dwellings - nobody could call them houses. The dwellings are built of battered corrugated iron sheets, the roofs have no pitch to them and they have no windows. Some of the families have built annexes of thatch, some of them have used canvas and some of them have used galvanised iron sheeting to give them relief from the summer heat so that they can have their bedding out there in the heat of the summer. Those people do not have any toilet facilities and they do not have sanitary services provided. They have waited nine years for sanitary facilities to be provided. They

waited a similar length of time for water to be provided from the town water supply and that has only recently been provided and reticulated to each of those dwellings where they have one tap in each. There is one family on the reserve who have been registered as foster parents and they live in just exactly the sort of dwelling that I have described to you. Yesterday when I was there they had nine children who had gone through the courts or who were seeking refuge from even worse situations than they were in. The community group there has sought funds to improve the situation on that reserve for year after year after year and they have been refused, and they have been refused on the grounds that governments have implemented policies of assimilation. The State Government and, up to recent months, the Commonwealth Government, the Aboriginal Development Commission, the Aboriginal Lands Trust - all of these authorities have done their damndest to make sure that those people do not get the kinds of facilities which they need so that in time they will move into the town rather than stay on that reserve.

I shall tell you how I feel about these two experiences. I refuse to feel humiliated as so many of our people do. I refuse to feel despair - degrading, degenerating despair - as so many of our people do. I feel the pain that they feel, I feel that anguish that they feel and I have in me a deep, deep anger. I hate, I realised this afternoon when I was flying from Sydney to Melbourne, I hate those people who can shoot dead in the name of some misguided sense of racial superiority and I feel that hatred to the depths of my being. But I also have a hard, indissoluble resolve and determination that we are not going to be beaten by people such as those, by people who sit in authority and make life and death decisions over others. By people who refuse to allow others to live on their own land in the sorts of conditions which they desire to live in. After those experiences in the last week, I am absolutely determined if it takes the very last ounce of my energies, my physical energies, my emotional energies, my psychic energies, to fight to overcome those kinds of attitudes

which mean that people in this country have to die. That is my response.

I do not apologise for the emotion I have displayed here. It takes a lot to make me cry. I am a person of very great strength. I have suffered the taunts, the torments, the pain, the anguish that I believe every Aboriginal person in this country has had to suffer some time or other in his or her life. I believe that there are numerous members in the Australian community who feel the same way that I do about the events of the last week and I am optimistic, indeed I have every confidence, that together we will overcome these kinds of attitudes and situations which mean that people are losing their lives. I have that faith and confidence and I have that resolution. I hope that from wherever we have come in Australia to this gathering this afternoon, this weekend, that we will go back with a greater determination and a greater resolve to overcome the, not just negative, but totally destructive attitudes and practices of people such as those at Moree. One of the things that quite overwhelms me apart from those which I detailed earlier was that there was not a single one of those non-Aboriginal community groups that we met with prepared to acknowledge any responsibility whatsoever for the situation which had developed there. I believe that there is a great deal which government can do to overcome some of the problems which exist in those places, but I also believe that it is a community responsibility and that that sense of responsibility was totally lacking. As I said at the outset, I am very disappointed that there are so few people here tonight; I do hope we get more people coming along tomorrow. But if we do not, then we have to acknowledge the fact that you and I have one hell of a job ahead of us.

ASSOCIATE PROFESSOR MANUEL ARONEY. OBE,  
Member of the Human Rights Commission

The request was made that I speak on this subject from the point of view of a member of the Greek Community. I can give a personalised account based on my experiences, but I would not presume to speak for the community - no one has a mandate to do that.

After all we are talking about more than half a million Australians of Hellenic descent who are spread throughout Australia and who hold a wide variety of views. The greatest concentrations are in the capital cities, notably Melbourne and Sydney, but there is hardly a town in Australia which does not have a formalised or an informal group identifying itself as the Greek community. I want it understood that in this talk when I use the term "the Greeks", I use it as a convenient way of referring to members of the overall Hellenic-Australian community. They may be immigrants to Australia or they may be the Australian-born progeny of immigrants. The criterion for inclusion which I use is an acknowledged interest and activity in Greek-Australian matters.

It may be surprising to you to realise that extensive intercommunication occurs between the various Greek groups across Australia. This is partly through a network of personal contacts which almost inevitably exists and partly through the dissemination of Greek language newspapers. Whatever the means, the fact is that news affecting the Greeks spreads fast.

The basic concept relevant to tonight's talk, "Freedom of Expression", does not have to be sold to the Greeks. It is part of the Greek soul; it is an inalienable right. The principle is not negotiable. What is said, however, what is inferred, what is perpetrated in the name of this principle by

people who are less than altruistic, may well be another matter. The Greeks in Australia have good cause to ponder that question.

My own personal involvements have been with Greek groups in a variety of centres in the Eastern States, but my predominant experiences have been with the Greek communities of Mackay in central-north Queensland and of Sydney.

Perhaps I could dwell for a short time on the Greek scene as I lived it in Mackay. I believe it was typical of many country towns. What was it like in the earlier days? particularly focus on the era of the late 1930s and the 40s. the limits of my recollection. The Greek community of Mackay was relatively small but it was a very real entity. a cohesive, friendly group. It embraced also some of the Italian, Maltese, and Lebanese families and, as well, a few Anglo-Australians who were prepared to mix socially with us. The emphasis was on survival and on "making good" in a tangible, material sense and there was opportunity to achieve this if one was prepared to work hard and long. The Greeks did just this. Make no mistake; relative to other lands, Australia was a good place in which to be. The Greeks knew it and appreciated it.

Problem areas did exist. The Greeks were very much aware of them but were not prepared to speak up or to make an issue of them. The Greeks of the time, in common with the other ethnic minority groups, were very much on the defensive. The Greeks were tolerated and that is the operative word. They were unobtrusive and undemanding. You could say that we knew our place.

We had freedom of expression to a substantial degree, but constraints did exist for us beyond those for the general Australian community. In reality, most of the townfolk did not care very much if we spoke in Greek, English or any other tongue. But a significant minority strongly resented us and

they were not backward in saying so. It is a regrettable fact that the words and actions of a bigoted few linger in the memory - maybe because they stung so much. These people did not like us because we were not of their mould. They objected to our speaking Greek. They resented our cohesiveness. They did not approve of our owning houses or shops. This they told us in the strongest and most offensive terms. Good luck to them. They were exercising their right of self expression. But there was a double standard. The Greeks also had strong opinions and if they had voiced them there would have been a lot of trouble. With rare exceptions, the Greeks swallowed their pride in the face of such insults and they kept quiet. The offensive few might regard these times and circumstances as the good old days, but the Greeks did not quite see it that way. The right of expression as exercised by these people, or rather the abuse of this right, was regarded by the Greeks as a form of oppression.

I do not want to overstate the case. Though racist attitudes were commonplace, it was usually an unconscious form of racism. Most people about us were reasonable and decent - I want to emphasise this. Those who spoke with venom were few in number, but their effect on the community was great. Most Greeks felt that these few were voicing feelings and sentiments which were in the minds of most Australians of British stock. I feel that the situation, as I describe it, was true of the Queensland country towns. I feel it was true also of Sydney. I believe it was general across Australia. The Greeks had a low status in the strongly British-oriented host society of the time. Esteem from the general community was sadly lacking. I well remember an article in the local Mackay newspaper in late 1940 which described in glowing terms the heroic battles of the army of Greece against the Axis forces in the Albanian campaign. I believe it was the first real battlefield victory by the Allied forces in World War II. The Greeks of Mackay were ecstatic; it was almost beyond belief that an Australian newspaper would write of Greeks, any Greeks, in a way so laudatory. It did wonders for their image and morale. I still have that article. Such occurrences though were all too rare.

The effects of long term exposure to prejudice and insult can be seen in many of my generation who completely surrendered any vestiges of Greek identity and were eventually swallowed up in the British-Australian community. Others were steeled by their experiences and strengthened their pride in the Greek heritage. I make no secret of my admiration of the latter group - they had more insight, more guts.

I contrast the Greek-Australian youth of the pre-war days with those of today. The Greek-Australian student population, for example, is now of great number and has a nationwide voice in the NUGAS organisation (National Union of Greek Australian Students). I note with approval the frank, open and fearless expression of opinion and the spirited debate at national conventions. Long gone are passive, deferential attitudes.

The question has been posed regarding the incidence of anti-Greek propaganda. I have seen little evidence of any systemic, sustained campaign. Others I have asked in Sydney and in Melbourne bear out this impression. There have been occasional anti-Greek articles in main-stream newspapers and magazines. Anti-Greek sentiments in fringe-group publications are not taken very seriously by the Greeks. After all, who reads them? It is possible that anti-Greek propaganda campaigns, of which I am not aware, occurred in other places in Australia - I do not rule out the possibility but I think that, in general, such campaigns, if they occurred, made little impact in the overall scheme of things.

The influx of Greek immigrants on a mass scale in the 1950s and 60s brought dramatic changes to the Greek communities throughout Australia. It brought renewed strength both in terms of numbers and of resoluteness. The early Greek settlers suffered the humiliation of being treated as inferior - some may deny this, but I assure you that this was the case. The post World War II immigrants were, to a degree, different. They were

people who had suffered in other ways - the war, occupation, deprivation, hunger, and bitter civil conflict. They had evolved differently to the older settlers in Australia. They were in no way anglicised in their attitudes; they had been invited to come here by Australian Governments which made it clear that they were welcome and they were needed for the development of Australia. The host nation was changing in its attitudes to immigrants. World War II, the threat of invasion, the nakedness of Australia, the priorities of its allies when the chips were down, better communications, wider news services, an increasing appreciation of post-war realities - all of these factors contributed to a new spirit. The Australian Government took its first tentative steps to an appreciation and a recognition of the needs of immigrants. Many examples exist. The term "New Australian" was advanced to replace less flattering descriptions such as "dago". Restrictions on the publication in Australia of "foreign language" newspapers were eased. Some of the changes were cosmetic, but others were more significant.

In this period the Greek community, in common with other ethnic groups, was evolving to a point where inequities, in the past accepted, would no longer be tolerated. Fundamental changes were needed. A response to this by Government came about in the early 1970s with a new, more humane policy of cultural pluralism. Multiculturalism replaced the extreme form of assimilation prevalent until that time. To my mind, a milestone of this new era was the formal inauguration of the Ethnic Communities' Council of New South Wales in July 1975. About 1,000 delegates from roughly 400 ethnic organisations converged on the Sydney Town Hall to hear strong speeches from the Prime Minister, the Leader of the Opposition and many other Federal and State political leaders in support of the rights and aspirations of the ethnic groups. This was a bipartisan approach - a real breakthrough by Bill Jegorow, the Chairman, and the foundation members of the Council. It is proper to recognise that an analogous body had, a little earlier, been established in Victoria. A spirit of optimism swept through the ethnic communities - it was a great feeling.

It is fair to say that real and sincere efforts have been made by Federal and State Governments in the past decade to redress some of the disadvantages of "ethnic Australians". Much has been done, but much remains to be done. The Greeks, as with other ethnic groups, recognise and honour Australian leaders of any political persuasion who have shown genuine interest and empathy. They are also well informed with regard to bigots and racists; feelings run deep on this issue.

It is not my intention to list the substantial achievements as they are seen by the Greeks. Without question, one of the most significant is the advent of ethnic radio as a government sponsored enterprise. This is more than a community service or a vehicle for entertainment. It has been seen by the ethnic groups as symbolic of the acceptance by the Commonwealth Government of ethnic groups' languages and cultures as a legitimate part of the contemporary Australian scene. The advent of multicultural television enhanced this conviction. These important initiatives in broadcasting provide a new dimension of expression and experience for all Australians. They are very welcome though it is debatable whether ethnic community expectations are being fully realised in this area. Perhaps this will come with time and experience - let us be optimistic.

Well what about multiculturalism and all of its ramifications? It was good heady stuff. The Greeks, and indeed most ethnic Australians, realised it meant a new deal and they were optimistic. Were Anglo-Australians really convinced? Did anybody really know what multiculturalism was all about?

believe that most Australians, irrespective of their background, realised that a greater degree of consideration and humanity had to be shown to disadvantaged groups such as ethnics and Aborigines. It is a fact, though, that old attitudes die hard. I recall an incident about five years ago when I visited my home town, Mackay. It had been reported that I was appointed a member of the National Ethnic Broadcasting Advisory Council whose function it was to advise the Federal Government on issues

regarding ethnic radio. A prominent figure in Mackay, of English extraction, invited me for drinks and a discussion on all of this multilingual broadcasting and multicultural business. Over one and a half hours I tried to explain to him the concepts of cultural pluralism, the value of linguistic resources, the feelings and the needs of virtually a quarter of the Australian nation. He listened; he was interested; then finally he summed it all up by asking with some feeling "that's all very well, but when are you people going to become normal?" I felt I was getting nowhere - he was completely conditioned by the attitudes of the past. This was not an isolated case; many felt this way. It is my conviction that most of these people are not intentionally unkind - they simply are out of touch with the reality of the Australia of the 1980s.

For the ethnic groups in the larger centres during the 1970s "multiculturalism was in". Let the academics and the purists rave on about the elusiveness of a precise definition. What really mattered to the ethnics was that the term implied clearly a new spirit of tolerance, understanding, goodwill between the various components of the Australian family - the very antithesis of narrow-mindedness, prejudice and bigotry.

The acceptance and the belief of the Greeks in the new order was, however, severely tested in March 1978, when the Greek social security affair broke. I do not like to reopen old wounds, but this episode cannot be ignored because it was one of the most traumatic experiences in the history of the Greek community in Australia. I do not intend to dwell on the allegations made or on the legal aspects - that is the domain of the courts of law. I think we are all well informed of the outcome to date. In the context of this conference I must mention the enormous hurt that was inflicted on the Greek community throughout Australia. Especially was this so from sections of the media, though I hasten to add that there were notable exceptions. Especially resented were the many references made to the "Greek community" being involved in

rackets. It was felt by the Greeks that much of the coverage went well beyond reasonable limits and had a barely disguised racist basis. It was regarded as particularly damaging. After all, these were not articles in obscure publications - this was part of the mainstream media reporting in terms that can most politely be described as coloured and extravagant and it came in the guise of objective reporting. There was a lack of sensitivity and of responsibility.

It is no secret that the Greek communities in the major cities are often divided into factions. The social security episode did what no Greek could do. It welded the many factions together in a common cause - the countering of what was regarded as an anti-Greek propaganda crusade. The Greeks reacted strongly to what they saw as a collective stigma which cast suspicion on every member of the community. That the events of those days brought out latent xenophobic feelings in elements of Australian society is undoubted - there are many examples of this. Some people in authority thought the Greeks over-reacted and were too sensitive. These people simply did not appreciate that the problem could not be viewed in isolation. It was a major hurt superimposed on a long history of insult and denigration. From an overall Greek community point of view it represented a major setback in community relations. It caused the Greek communities to become more distrustful of others and more inward-looking. It was without doubt an issue which caused divisions in the Australian nation. I hope that lessons have been learned; that such episodes will not be repeated.

In finishing up this talk, I refer to what a friend said to me a few days ago in Sydney. "What's the problem, the heat's off the Greeks". In context, he meant that at this time there is no real racist propaganda against Greek-Australians - rather, where it exists, it is aimed at other minority groups possibly the Jews, the Indo-Chinese, the Aborigines. I thought he was way off the mark. My feelings are that where racism exists, where there is racist propaganda against any group

within our Australian society,- no one can afford to be complacent. How to counter it? Of that I am not sure. But I am clear about one thing: we must be very careful in considering any further qualification of a right that is most precious to us - our freedom to express ourselves.

DR BARRY COHEN

Member of the House of Representatives

When Peter Bailey first asked me to participate in this seminar, I was not sure of what he wanted. When he explained that he would like me to recount my personal experiences and not to give a detailed account of anti-semitism in Australia, I welcomed the opportunity. Firstly, because I do not feel qualified to do the latter and, secondly, because personalising a subject such as racism may be a way of getting through to people more effectively than the conventional, drier, more political and academic approach of the past. It is different to any speech I have ever made before.

There are those who will think of racism as the discrimination by whites against those of different coloured skins. Unfortunately the most horrific example of racism in history occurred this century during my lifetime. It was the attempt by one group of people to eliminate from the face of the earth the Jewish people. Their skin colour may have been the same but their ethnic origins were different and it was those differences that led to six million, one third of the Jewish population of the world and 90% of European Jewry, being systematically slaughtered.

It is not my intention to talk tonight about the Holocaust, other than as a background to my own experience as a child, as a youth and as a young man who lived through those years, fortunately in a country a long way from where that nightmare was occurring. The point that I want to make is that you do not have to be black, brown, yellow or of mixed race to suffer the degradation and indignity of racism.

I was born in the New South Wales country town of Griffith in April 1935, the son of Lou and Phyllis Cohen; so you will note that Al Grassby was not the only good thing to come

out of Griffith. My father's parents were Polish Jews who, like so many of their ilk, left Russian-occupied Poland in the 1890s to escape the pogroms and compulsory military service that so many Jews failed to survive. After a short sojourn in England where three children were born, they lived for some years in South Africa where my father was born. Just prior to the outbreak of World War I, they arrived in Australia with four children and had their first meal in a Surry Hills tenement on packing cases. Two more children arrived shortly afterwards to add to the burden of poverty that surrounded the family.

My father was fortunate that by the time he was reaching maturity the family's fortunes had improved sufficiently to enable them to send him, with the aid of scholarships and bursaries, to university. After graduating in the middle of the Depression and spending a year or two as a locum in Bathurst, he met and married my mother before buying a small country dental practice in Griffith, New South Wales, in 1934 - at that time it was little more than a frontier town. Shortly after their arrival there, I arrived on the scene, the first of three children and one of only four Jewish families in the whole district. Apart from annual visits to the city to see my relatives, my religious experience was limited to Friday night Sabbath service and the important Jewish holidays: Pesach, Rosh Hoshana, Yom Kippur - in English, Passover, New Year and the Day of Atonement.

For nearly ten years that really was my only consciousness of being a Jew. It is, of course, a long time ago, but my clearest image of that period is simply that being Jewish was no different to being anything else. I cannot recall any incidents in Griffith of anti-semitism from either my fellow school friends or from adults. The only time I recall being slightly different was on those days when we had scripture and my fellow students were visited by priests or clergymen and I was allowed to sit outside in the sun and read. For a long time I thought being of "The Chosen People" meant I could read comics when the other kids had to read the Bible.

If there is a feeling of being different it was simply that there were not many of us. Seven Jewish children in a school of nearly 1,000 students made us a little bit of a curiosity. However, I cannot recall one occasion when I was made to feel embarrassed about being Jewish. It is probably the reason why today I have the fondest and warmest memories of country life and the town of Griffith. It is also interesting to consider this apparent lack of prejudice, at least at that time and through my experiences, with the popular conception of Australia's rural communities being a hotbed of prejudice and racial intolerance. It is particularly interesting when one recalls Pat O'Shane's comments earlier this evening when referring to the recent tragedy in Moree.

This idyllic existence came to an abrupt end towards the end of World War II. It was apparent to my parents that if I was to have a proper Jewish education sufficient at least to make a fist of my Confirmation (Bar Mitzvah) by the time I was 13, then it would have to happen in an area where there was a rich Jewish cultural and spritual life. Whatever Griffith was, it was not a rich Jewish cultural and spiritual centre. A decision was made, much against my wishes, to send me to boarding school in Sydney. Sydney Grammar School was chosen because, of the schools available, it was the one GPS school that was non-denominational. My religious education was not to be undertaken at the school, but nearby at the Central Synagogue.

In late January 1945, I set off at the tender age of nine to undertake four years of Jewish education, 400 miles from the bosom of my family and from a friendly community where I had never had anything but the kindest treatment.

It was, to say the least, a rude shock. The first day at Grammar I was involved in three fights refereed by the School Sergeant. Within hours of my arrival at school, I had been met with taunts by my colleagues of "dirty Jew, bloody Jew" and a

host of others which one does not normally use in polite company. To say that I was shocked, hurt and bewildered is to put it mildly.

Fortunately, I could fight fairly well in those days so I had no further trouble with the particular boys who had proffered the insults. Nevertheless, I knew it would not be very long before I met someone who could fight better than I could.

At school, in my own class, it was bad enough but at least all the boys were of roughly the same size and weight. At the boarding house where I was the youngest and smallest, the situation was quite different. There was little I could do when a 17 year old, 14-stone member of the school Eight decided I was "a bloody little Yid".

I am long past feeling sorry for myself, but I ask you to try to imagine what it must have felt like for a nine year old boy, lonely and homesick enough at being sent away from his parents and brother and sister and from a community that he loved and that accepted him, suddenly finding himself in the midst of this cauldron of hatred. It would have been a very unusual person who remained unmoved or unscarred by such an experience. I was no exception.

I would pcc want to give the impression that Sydney Grammar School was a hotbed of anti-semitism or that the masters and the majority of students were viciously anti-semitic. They were not. However, there were enough young anti-semites to make life very miserable for those they chose to make the butt of their hatred. With the wisdom of hindsight and maturity I can see now that children at that age were almost certainly unaware of the cruelty they were inflicting on others. Prejudice, like other personality characteristics, is passed on from the parents and from the peer group. One can hardly expect 10 year olds to have the maturity to comprehend what they were doing. In time,

one of two things happen. Either they reach the point, as many have done, where they recognise the absurdity and immorality of their prejudices or they continue to reinforce those prejudices and to foster them amongst the rest of the community.

At about the same time as I was being introduced to the delights of racial prejudice, my co-religionists in Europe, or what was left of them, were reaching the end of the worst period in the history of the Jewish people.

The war in Europe ended in April 1945, just as I turned 10. In the previous 10 months as the Allied Armies swept across Europe the full impact of what had only been suspected became evident. I can still recall the devastating impact of the daily reports in the newspapers and on documentary films as the full horrors of Auschwitz, Treblinka, Mauthausen, Belsen, Buchenwald and all the other death camps, unfolded. At 10, the average boy or girl is usually blissfully unaware about what happens on the international scene. They are matters for adults to discuss and agonise about. However, the war and what its aftermath revealed were brought home to young Jewish children in a way that they were not brought home to their non-Jewish friends. One would exclude from that comment those who lost parents and relations in the war itself.

The sight of hundreds of thousands of human beings, suffering from starvation and malnutrition, staring vacantly at their liberators because they were too weak to show any other emotion, was a heart-rending experience. We saw the mountains of bones, the mass graves, the piles of hair, spectacles, clothes, teeth and the gold extracted from them, the horrors of the gas chambers, the scientific experiments on human beings. All this reported and repeated daily in the press and in theatres must have had a traumatic effect on any normal person who saw it, but for those who were Jews, it left them in a state of shock from which they could never hope to fully recover. It is a salutary experience to find your very existence a capital offence.

There were other feelings that at the time were difficult to analyse. The first emotion was one of anger and rage that man could do this to a fellow human being. Another was a mixture of frustration and sadness that so little had been done to prevent it happening or to stop it once it started. Even today when I read a book or see a film on the Holocaust there is a feeling of helplessness that more was not done by the Allied authorities who knew what was going on and yet continuously ignored pleas from the Jewish underground to bomb the death camps.

The final emotions were a mixture of guilt and relief. Relief that I had been fortunate to have lived in a country where anti-semitism was probably at a lower level than in any other country in the world, and guilt for having lived in comfort while others suffered.

No Jew who lived through that period can have escaped emotionally unmarked unless they were either stupid or had a hide like a rhinoceros. I was no exception.

Like most boys of that age I had a normal healthy interest in the same things that my friends were interested in. I do not want you to get the idea that life was a misery in which I sat around every day contemplating the horrors of World War II. Nor was I tormented unmercifully at boarding school, although my second year was even worse than the first when a boy finally came to the boarding school who could fight better than I and had views about Jews that would have made him a leading light in the Hitler Youth Movement. In fact he could fight better than anyone else at the school and finished up school boxing champion. Things got so bad at school that my father had to come down to see the House Master, a wonderful man, but a strict disciplinarian, who soon made it clear to my tormentor that he could wield the cane better than the little thug could fight. He got the message and I got a little peace.

From that time I cannot recall any experience of a similar nature where I was threatened physically. The torments were of a different nature. You may find it difficult to believe but I was once red-headed - naturally earning the name "Bluey". Couple that with a liberal dosage of freckles and you will realise why I was rarely recognised as being Jewish. I often found myself in new company enjoying the conversation when someone, unaware of my ethnic origins, would make some anti-semitic remark. Sometimes it was vicious, sometimes not, but it was always insulting, always derogatory and always hurtful. People who had never even met a Jew had nevertheless stereotyped images of them that were invariably unattractive. Jews were mean, miserly, cunning, ruthless and, of course, controlled the world media, business and governments. Even as a young man I could never quite fathom out why, if we had so much power and control, we were always getting our arses kicked.

What often happened was that just when I was beginning to feel what nice people I had met, one of them would intrude into the conversation an anti-semitic comment that depicted Jews in a disparaging way. The effect was instantaneous. I would feel as if I had been kicked in the guts. The blood would rush to my face and I would hope that a hole would open up and I would disappear. As a young boy I was totally unable to come back with a reply. Firstly, because I was usually too taken aback to think of a suitable answer and, secondly, because I did not know what the right answer was. Initially, I was confused and bewildered to find that I had a whole range of personality defects that I was not even aware I had. It was automatically assumed I was mean with money. The slightest sign of frugality on my part would be immediately attributable to genetic inheritance. The result was that I would go out of my way to be generous. I would always try to buy the first round of drinks to ensure someone would not make a crack about my being careful with a quid. Even then, I had to be careful because I always half expected someone to make a crack about me being "flashy". The result was that I was damned if I did, and damned if I did not.

The effect on me in my early years was to be always on guard. Never totally relaxed. Conscious that at any time the snide remark, the careless aside, the deliberate innuendo would come out at the least expected moment. Eventually I decided that being open-mouthed was not the way to handle things and I set out during my early teens to try to discover what made people anti-semites. I read everything I could about the history of the Jewish people, anti-semitism and later on about prejudice in general. In time I developed, as most Jews do, a defence mechanism. I developed a nice little ploy to turn the embarrassment around. After they had dropped one of their clangers, unaware of what I was, I would say, "Oh really, I'm Jewish". I used to get quite a lot of pleasure out of watching them squirm. It was they who had the red face as they would stumble around trying to extricate themselves with "Oh, I didn't mean you", which made it worse, or "Some of my best friends..." or some such puerile remark. I got past this sadistic stage at last, and often let people know I was Jewish just so they would not make the usual blooper.

Let me remind people here tonight that the climate has changed considerably during the last 30 years. It was perfectly normal for people in which one might describe as polite company to be openly and unashamedly anti-semitic during the 1930s, 40s, and 50s. It was only then when I was doing some research a few years ago at University and the paper concerned Jewish immigration prior to World War II, that I realised how much community attitudes had changed.

Anyone who doubts this need only read newspaper and magazine articles of the late 1930s to realise just how much they have changed. I also recommend reading the Federal Parliamentary Hansard debates on the decision to take some 7,000 European Jews as migrants, and the speech of the Labor Member for Kalgoorlie. Such a speech made today would have him drummed out of public life. There may well be as much anti-semitism around today as there was 40 years ago, but it is not considered politic or good manners to be openly anti-semitic these days. In

the 1930s anti-semitism and racism were fairly conventional community attitudes and very few people bothered to hide their views. I do not suggest that many Australians approved of Hitler's attempt to exterminate Jews, but many probably agreed with his view of Jewish characteristics.

To return to my defence mechanism. One ploy, as I said, was the attempt to embarrass. Others I would ignore, particularly if I thought they were too stupid to bother about and with others I would debate the question. I suppose my first political skills were developed in trying to prove people wrong about Jews. Every now and then I would get angry and let them have both barrels. In time as I matured, I learnt to live with the problem but there is no doubt that it left its mark, not all of it for the worse. There is no doubt that having suffered from prejudice myself I was able to comprehend the feelings of others who had suffered a similar fate.

The same people who irrationally hate Jews almost always have the same attitude towards people with a different skin colour, nationality, religion or class. My feelings about prejudice were easily translated into opposition against other forms of prejudice. I became involved in the early 1960s with the Aboriginal movement and from there progressed into politics. Like many of my co-religionists, I moved to the Left in politics and finally, in 1964, joined the Australian Labor Party.

I was once asked the question by a prominent Australian journalist who was doing a series of articles on leading Australian Jews, "Was I glad I was born a Jew?" My answer was "Yes", mainly because I believe it gave me an extra antenna, an extra sensitivity that no one who has not suffered from prejudice and persecution can have. It gave me a better understanding of the way in which society functions and a greater sympathy for the underdog and a determination to make some small contribution towards creating a better society. The first step in creating a more equal society is to eliminate all manifestations of prejudice.

I hope this evening I have helped a few of you gain a little more insight into the cruelty of racial prejudice.

MR WELLINGTON LEE, OBE

Chairman of the Federation of Chinese Associations

It is very difficult for me in the short time allocated to talk about 140 years of oppression of a minority group - the Asians. Historically, for most of that 140 year period, when talking about Asians, we are talking predominantly about the Chinese.

As I see it, the Human Rights Commission is a group of people thrown together very quickly - I do not know whether that is right or wrong - and we expect them to solve the ills of our community, the ills of racial discrimination and prejudice. For that task, they will need a lot of help from all of us here. It is fairly reflective of the problems we face that when I look around here I only see one other Asian face. I do not know why this is so, whether it is through intent or through apathy, but it is what I look out for in any of these seminars, conferences or what not - a lack of an Asian face. Such a lack is suggestive of what our status has been in this community. Yet for 140 years we have not merely been the subjects of oppression; we Chinese have contributed much to the history, heritage and the benefit of this nation. Fortunately for me I do not have to cry in despair as Pat did. As a human and an Australian, I think that it is in order to have every sympathy for Pat and her people. It does not need words to say how much our conscience should trouble us.

Unlike Professor Aroney, however, I feel that I can speak for my community, although I will draw upon a lot of personal experiences. It took me and a few others a long time to get our community together to make a stand and decide once and for all that we are Australians, equal to all other Australians, and nothing less is going to suit me or any other members of my community.

If at times I interchange the "I" into "we", talking as both a Chinese and as an Australian, I am sure you will understand. Even when Chinese individuals are Australian born, however, they are not accepted as Australians. One of the most hurtful features of the way in which the Chinese are treated is the way in which their contributions to the building of Australian society are ignored. Although only a relatively small matter in itself, the early overlooking of the Chinese in the planning for the bicentennial celebrations was typical of this neglect. I cannot say that I have been here five generations like Senator Missen, but have been here four generations.

It is not surprising that I share a lot of Barry Cohen's experiences. I went to a boarding school - the second Chinese ever to do so and the only Chinese in my time in a boarding school. I really know why the first one did not last longer than a term because to be the only Chinese in an exclusive boys boarding school is to suffer discrimination head on, direct confrontation and discrimination. Unlike Barry, I avoided the 14-stone guys (I only leap on a face-to-face issue with people my own weight) and fortunately for me, I was bought up in a very tough town. I am very ashamed of it now, but I had to break several noses before I got some peace. When eventually I could not keep on breaking noses, I had to resort one day to picking up a brick and threatening that I would lay open every skull within distance of Ale. They believed me because after that I had peace forever in that boarding school. I have every sympathy for Barry because I thought it was bad enough to be a Chinese in this society but, boy, am I glad that I am not a Chinese Jew. That would have been insufferable in our society. Sometimes our fellow Chinese have been very helpful to us. Those, however, who do get political appointments still, in my opinion, kowtow to Europeans. I think that is wrong because we, like any other ethnic group, will never get anywhere by kowtowing. Unless we stand on our own two legs and say that we have arrived and that we do not apologise - only then will we make progress.

I want to make a statement and an appeal: a statement, that there has not been enough research, not enough attention and little, if any, realisation that incitement to racial hatred is different to Asians than other ethnic communities. This statement is not intended to create any division within the ethnic communities because we Asians accept the total concept of multiculturalism. I also hope that we are going to balance some of that with certain assimilation because good assimilation is also important for ethnic people to reside in a complete society. But the Asians have the added disadvantage of skin colour and that skin colour is very devastating to one's self-image in a racist society. No one can ever tell anyone of a different skin colour that "it is alright; why should it be different for you?", because it is different. Although all ethnic groups experience difficulties, a distinctive skin colour really marks one out before one has even opened one's mouth. Until recently, particularly with the masses of refugees, the Asians and certainly the Chinese had become so diffused, so integrated, so assimilated, that they were in danger of losing their identity. The question of why this was happening is an area of research which would need to go back to the first Chinese in Australia and which would need government agencies to fund such research. I would suggest that the research or even a thesis - and possibly a post-graduate could use this as a PhD - should be done by a Chinese with considerable roots in the country. I am aware that there are publications in existence about the Chinese in Australia, but most of these have their shortcomings because they are works by either Europeans or recently arrived Chinese. I contend that unless you have lived as a Chinese in this country, you cannot really recount the history through the eyes of the Chinese in this country. No one else can really feel what it is like to be a Chinese in Australia. I applaud those who have taken the initiative with these publications because at the beginning, even this much is hard.

Most of what I say to you tonight may not be pleasant for you to hear. It is not my intention to speak in terms of

appeasement. I do not intend to pacify you or ease your conscience. This is meant more as a fighting challenge. The challenge to Australia is to give multiculturalism more than lip-service and, in doing so, not to omit Asians in the scheme of things. If what say may shame you, then please accept that. As your being here indicates, you are willing to use your efforts to redress some of the callous and brutal treatment of a small but significant minority of our population that is the Asians. This could be a classic case of my preaching to the converted.

The Chinese may not have suffered as much outrageous and inhumane treatment as the Aborigines, but they do share a lot of social discrimination which, in this unequal society, is reserved for half of our population. I mean the women. I think women understand some of the prejudice and social discrimination that the Chinese have to live with. When Australian political leaders use the national "we" - women and Chinese are equally excluded. The Chinese have not only been relegated to a status which is equivalent to second class citizenship, but they have also been denied, for approximately 70% of the existence of this nation, an equality which is theirs and which there was never any reason to deny them. We all know that they have been humiliated. Certainly in earlier days, they have been ignored and, in another very sordid chapter of our history, even murdered in masses. I shall not go into that; those of you who are historians would know of the massacre of the Chinese in the various goldfields. The Chinese have not asked for the recompense or reparation I think they are entitled to because of their contribution to this nation. They do ask that the residual repression which still endures to this day should be removed.

Barry Cohen mentioned a politician and his attitude to Jews in the early days of our political life. Let me give you a statement that must have horrified those of you who heard it at the time and who also happen to know what it did to the people

it was directed at. It is the historic statement that "Two wrongs don't make a white". Infamous, insensitive, degrading, completely free of human feelings and compassion - a remark that is so unchristian in an allegedly christian society that it was a shame on this nation that, not only did it reflect the racial biases of that time, but also no one thought very much of it. There was not very much concern that it was said in what should be the most respected institution of our nation, the Parliament of this country. Anyone who chooses to use another race, particularly a minority race, to ridicule and to make fun of in these days should not be tolerated. This statement was made, not through provocation nor anger, by a Minister of the Crown for the supposedly sensitive portfolio of Immigration and a politician who aspired to be the Prime Minister of this country.

In those days, not very long ago, what did this nation do about it?

No wonder Hitler rose to great heights by eliminating 90% of an ethnic group because no one stood up to him. This could have been the way we were going in this country. We tolerated the humiliation of our fellow citizens. I know of decent Australians today who want to expunge the memory of the obnoxiousness of that repressive statement and also the repressive act which that politician supported (the White Australia Policy) from our past racial relations. I do not think we will ever remove it from our memory, those of us who heard it. It is something that I should remind you of because if you say that we have not got bigots in the wrong places, I can then assure you that we do. We have made some progress, maybe very little, but we have. Multiculturalism is seeing the placement of a lot of excellent officers in the area of immigration and ethnic affairs and some of our senior officers, who are ethnic themselves, have done a lot to improve the type of situation I have just mentioned.

When we strike racism we can sometimes turn our back. I am very fortunate in that I can cope with racism. Because I experienced so much of it, I can twist it. I can make my racist aggressor more uncomfortable than I feel. But this is now. It took me a long time to work to that situation.

One recent problem affecting relations within our country concerned the importation of racial bigots. A person I know has offered one answer to that problem. He felt that one requirement for immigrants to Australia should be that the individual be prepared to be a good citizen and that the concept of a good citizen must include acceptance of Australia as a multicultural society. Some of the immigrants who came to Australia and then demonstrated a psychopathic hatred of other ethnic groups should be warned that they could lose the right to live in Australia. He felt that it should be made an offence against the law to argue that Asians who are Australian citizens should be sent back to Asia.

In the past, the image which Australia had presented overseas had suggested to many racists from Europe that they would be welcome in Australia and that they would find the social climate in Australia congenial. Much talk of preserving the Australian heritage was pernicious - many features of the colonial past no one should wish to preserve. Aboriginal and Chinese massacres had occurred and many of the attitudes associated with these outbreaks still flourished amongst the native-born red-neck racists.

The Chinese in Australia had suffered enormously from media stereotyping. Before the War, Asia was a legendary area to most Australians. Australians still are not well informed about Asia and much media reporting on political events in Asia reinforces the idea that Asians are very different from Australians. The Colombo Plan has been very effective in giving a range of Australians the opportunity of meeting Asians in a context where they can learn what they have in common as well as

appreciating cultural differences. However, even qualities such as industriousness, which were held to be virtues in others, were held to be vices in the case of the Chinese. Asians did avoid unemployment because they were often desperate to work, especially if they were recent arrivals. Part of the Australian opposition to Asians stems from a hidden inferiority complex - especially in relation to the work ethic which Australians need but often lack.

In one incident in Perth a man had put a sign up outside his house: "House for Sale. No Asians". When interviewed in the media his excuse was that he had served in Vietnam. So blinkered is Australian thinking in these areas that no one had thought to argue that the Vietnamese also served in Vietnam. Australia's involvement in the war in Vietnam and its aftermath has had serious consequences for Asians in Australia. Those who have come to Australia from Vietnam are still in a position where they are too fearful to come to meetings such as this one. They hope only to be left in peace and not subjected to racial harassment. To that end the Government should do everything possible to avoid the creation of Vietnamese ghettos. It may well be that many new arrivals themselves feel more secure living in an area where there is a marked Vietnamese presence but, in the longer run, this is most undesirable for a group who are so visibly distinctive.

The law should be changed to outlaw racial incitement. Asians feel this especially strongly because of their exposed position and their inevitable awareness that they are used as scapegoats in a period of high unemployment levels.

Before we accept people as immigrants to Australia we should make it clear that Australia is a multicultural and multiracial society and that immigrants are expected to take that for granted.

SENATOR ALAN MISSEN

Senator for Victoria

I am here as the Anglo-Saxon Celtic ethnic tonight. I feel I am really here as counsel for the defence because we have heard some pretty strong and very true attacks tonight and I suspect, although it has not been said all the time, that most of the people who have been guilty of the particular offences that we have heard of tonight have been my mob, and your mob too Gareth. Therefore, I do feel that you might be expecting me to make a defence.

I am not claiming to represent and to be able to speak for that mass of Australians that has been here for some considerable time. We are not quite the first race here. mean we missed by about 20 or 30 thousand years in getting here first, but we had a certain period before there came a big influx of people in the last 20-30 years who are, by and large, the people who most suffer from some forms of racial discrimination. Apart, of course, from the Aborigines who have suffered for 200 years in the way in which we have heard described tonight. Thinking of this tonight, and talking to Wellington Lee, I said "Well I can't talk about the way in which I was prejudiced against. Nobody called me an Anglo-Saxon clot or an idiot. Or if they did, I never really took it as a racial comment", and he said: "Yes, that's the thing about you people, you're so thick-skinned, you wouldn't notice the insults." That may well be true. As a community, we are so very conscious of the fact that the establishment, the Anglo-Saxon and Celtic establishment, has been here for some time. I think that we probably do not recognise insults. We think that our way of life is very satisfactory and we enjoy it and, consequently, I think there may be some explanation of our imperviousness in that. I am just happy though that I did not have any of these racial insults addressed to me because I could never fight my way out of a paper bag, and I would not have liked to have faced

up to it in the way that the more pugnacious members of this panel have obviously done successfully before.

Now possibly the other reason why I was called on to be a type of guinea pig was that Peter Bailey probably realised that, after all, I did have something to do with the Racial Discrimination Act in 1975. At that time, Gareth Evans was not in the Parliament. He was just writing the bills and he was holding the hands of various Members of the Parliament on both sides at that stage. Very impartial then, he is still impartial on occasions. He was trying to help this Bill through the Parliament and one of the things we did to his Bill was that we removed clause 28, which was the incitement clause,, concerning incitement to racial discrimination. Consequently what you are really considering in this seminar is whether or not the Bill, the Act as it is now, is adequate or whether or not you really do need something more than you have got. So it is, in a sense, once more the Racial Discrimination Act period and I think it is important for you to look again to see whether we have adequate legislation in this area.

When we are dealing with this, I would invite anyone here who is interested to go back and look at the debate in the Senate in 1975 because it is a pretty instructive one as to the range of views, particularly the range of views on my side of the political fence. The range varied from the full racist belief in the complete superiority of white Anglo-Saxon Australia and through that to people who took a very legalistic view of no interference with freedom of expression, to people who thought they should be able to say the most outrageous things and not be subject to any restriction; to people, of course, who said we do not need legislation in this area at all as all these things do not change society's behaviour. I have never believed that. I think it is pretty clear over the years that you can, by legislation, change people's activities and a lot of people do change and improve over a period where the society says this is the law we are going to insist upon and we are going to enforce.

As I say, throughout a range of views which were held in 1975 the compromise which the Opposition then made - and they had the numbers in the Senate, and the Government accepted this - was to remove this aspect, this incitement clause. It may well be said that what has happened since that time is that the Act has not worked as effectively as it might overall, partly because of lack of money spent on it - and that is a big factor - and partly perhaps because not all the powers in the Act have been used or exploited, nor have people been encouraged or able to get legal aid to take matters to court and to enforce the Act. Also, of course, it is only recently with the Koowarta case that we have really had the Act's validity upheld by the High Court, so that we know that, at least so far as the general powers are concerned, they are adequate. But I think it is important that you look now to see in fact how far you can go with these powers. There is a problem.

Earlier I praised Wellington Lee because he gave me an explanation of Anglo-Saxon phlegm, but I was not too happy with one or two things he said. He was saying of those people who went to public meetings recently, and used violent language against their fellow Australians, that we should get rid of these people and have some legislative means to get them out of the country. I think it is very difficult once one starts to have intimidatory legislation which will take away citizenship or will impose very heavy penalties on people for views. What I am saying is that perhaps we do need some additional strength for legislation, but it has to be very carefully done so that we do not at the same time throw away the protections which have been basic in Australia. Over the years we had to put up with some very unpleasant statements being made, but perhaps that is part of the price we pay for liberty in this country.

What I propose to do now is to examine a few propositions about the old white establishment here, the Anglo-Saxon one, and the reasons why there have been offences committed by that community, and why there is acceptance, to some extent, of racial discrimination and the sort of feelings

and actions which Barry Cohen has so graphically illustrated among kids. Why that happens here (and perhaps gives some clue to how we are going to overcome it) is because one of the things that is important about Australia is its isolation, the fact that we are a country right across the world from major areas of population. We are not close to Europe, we do not have people constantly coming backwards and forwards across frontiers, speaking a number of languages, getting to know people in other countries. True, more people and many more Australians are travelling. Some people say travel broadens the mind. I always find it increases my prejudice every time I go overseas and I am not sure it really helps a great deal at all, but the fact is that we are in this part of the world where it is not much use to Australians to speak a lot of languages and they do not learn them. Now my great grandfather - this was not the fifth generation, this is the other side of the family - he came out here from England and he spoke eight languages, apparently very well. I do not think anyone on that side of the family has spoken more than one language since then and nor do I. I mean I speak faulty English but nothing else, but I used to read Latin. The thing is that there is not a demand and a use for the languages and, therefore, I think that is one of the things here - the isolation of this country has led to some of the problems.

It has led also to the visceral feeling of dislike of things foreign which a lot of Australians have. Up to 1945 or so there was a fairly solid Anglo-Saxon and Celtic majority. Unfortunately, even though we have had an influx of considerable numbers in recent years, nonetheless the impact remains of the long period during which Australia did have this rather solid mass of people from a fairly common background, and the feeling that this was a lucky country where things were getting better and better. We did not want to lose this. We did not want to get involved in too many foreign wars or too many problems which existed in other countries. This problem of isolation is one of the things which I think has led to a certain amount of

prejudice and also the feeling that some people who come here work too hard, and they work for too little, and they do not join in the sort of common ethic of having just a good time, an easy weekend and so forth. This might not be so now - the present period leads I think to a different conclusion. That I will come to later. But I think this has been a basis of some of the racial discrimination and propoganda which makes Pat O'Shane say that this is the worst sort of racist country. I hope that is not right. It is not the worst in the world, but I agree it is pretty bad and I do not excuse it.

The second factor that is perhaps connected with that conduct is that there is an uncertainty and ill-ease which Australians have when dealing with foreigners and with people who have not had a similar background. I think this is a related point, but it becomes more emphasised when dealing with people of a vastly different background. For the Chinese people who come here, or for the Japanese, or in all cases where the language is different, the writing is different, and the way of life is very different, there is a barrier. The problem for the Vietnamese now is a certain lack of understanding by Australians and a fear that we might be developing two Australias within different parts of Australia. By contrast, the United States readily accepted the fact that it was going to be a polyglot community; it was going to bring in people from all walks of life and nationally they made a great deal of this. The "give us your poor", in the Statue of Liberty-type approach. The Americans accept that their success and greatness comes very much from that mixture. I do not think Australians yet have accepted that. I think that this will come, but I think one has to accept that it has only been 30 years. It takes a longer time for the absorption of people into the whole community.

If one looks around the community, in the political parties, in the unions, in organisations and so forth, there is a remarkable lack of mixture of new and old Australians. It is rather rare in political parties to find very many of the new settlers in party branches. I think they do not do very well in

unions either, as I understand it. The necessity of avoiding the development in this country of ghettos is very much a two-way process. It is not only a negative fear that people might come and live together in these groups and never, therefore, really mix, but it is also going to require from the Australians a positive effort to get involved with people, to get them into organisations. I do not think that has really been tackled by the organisations which are of importance in this country.

One has to face the fact that there is still latent in this community a very considerable amount of White Australian feeling. It is not often expressed in the Parliament, but it is clearly still here. Generally, it is not publicly expressed, but certainly there is this sort of prejudice. We had that policy for many years and reference has been made to a former leader of a party who could make jokes about the colour situation. I believe we have come a long way from that. But every now and then, as a member of the Parliament, one gets racist correspondence. There are a lot of papers from "immigration control councils" and other groups. If there is a Bill that is likely to impinge on these people's interests, then they come out of the woodwork. We cannot disregard the fact that there is still a considerable extremist element in this country that will emerge when the occasion arises. It does not have a wide recognition, partly because Australians are probably too apathetic to get stirred up by this type of concentrated nastiness. They probably reject it, but on the other hand there are people who perpetrate it. In recent meetings which the Minister for Immigration and Ethnic Affairs called around the country, there were clearly people who were determined to try to evoke as much disharmony as possible, so this is not a matter for complacency.

Some people say: "Ah yes, but Australians have always been tolerant" and so forth. I do not think Australia is a particularly tolerant country. It is not tolerant, in my view, in its political associations - it is not given to broad

consensus on a lot of areas. It certainly is not particularly tolerant of different ways of life and experiences. Sometimes Australians are just not terribly interested and perhaps it is not just a matter of tolerance or toleration. It is a matter partially of lack of interest in knowing what other people are doing, what other societies think, why they do certain things their way.

In addition, there is a certain cultural cringe in this country. We are uncomfortable and concerned with people of European countries with their rich experience in cultural life. Australia presently lacks this cultural depth. It is doing its best, but it is a bit fearful and if we took the European settlers out of the Melbourne Theatre Company's audience and away from the Opera and so forth, they would close up overnight. It is a situation where we are still basically developing our culture. We lack the assurance which comes from mutual respect.

There is one other thing I want to say about these propositions. This is a particularly bad period because it is a period of social stress, a period of economic stress, and in such periods one can expect sharp divisions and distrust between racial groups to become rather more accentuated. One does not find much generosity of people towards others in this time and I shall just give you an example of that. The difference in the attitudes of youth and age. There is a much more generous attitude on racial matters, I think, among the young. I have recently talked to pensioner relations of mine and I get quite angry with them when I hear them. They constantly say "Why are you giving all this overseas aid to all these countries, to all these people? You know, we'll never get anything out of it. Why don't you give it to us pensioners? What do you mean by giving seven hundred million a year to them?" There is a certain amount of anti-foreign sentiment among the old who have probably more latent White Australia feelings than others, and this works against the generosity of spirit which I think is

necessary to overcome discrimination of this sort. There is an example of this lack of generous spirit at this time in the announcement today that the appeal which was launched by the Prime Minister and by Al Grassby for aid to rebuild Lebanon has failed because not one cent was contributed to the appeal. It is incredible to hear that, but the announcement was that not a single cent was actually sent in and it is a very graphic example of the fact that people with their worries that are very immediate to them are not in the mood to think of other people's needs. Of course, part of the explanation of the appeal's failure lies elsewhere.

I spent a couple of weeks in South Africa earlier this year and constantly while I was there, I was being told, "Oh, it's all very well for you people. I mean, you only have 150,000 Aborigines. What if you had fifty million. How would you react?" I said "Not very well. I'm not at all satisfied that we would do much better than you, the South Africans. It does not stop me from giving you advice as to how you should act, but I do not make any claims that the Anglo-Saxon Australian would do all that much better, given the situation where he develops some sort of civilisation, believes that this is something that he has got and is frightened that someone might take it away from him." I do think that, so far as Australia is concerned, there is here a pretty serious cause for concern.

When I was in the Kimberleys and in other parts of Australia, taking evidence on the Makarrata enquiry earlier this year, the one thing that was very clear was that although we had very good reception and were heard and took evidence from the Aboriginal community, white communities kept right away from us. One could sense the hostility to the committee being there, to "what do you mean by interfering with our rights." Although subsequently someone wrote and said they wanted to give evidence, they never did. This animosity was clearly apparent, and we had many examples of this. the sheer hostility which

could be engendered in parts of white Australia to any interference by a committee investigating the problems that are occurring.

Speaking: as an Anglo-Saxon-Celtic ethnic, I do not put forward a blanket apology as justification. Having just read Professor Henry Reynold's book "On the Other Side of the Frontier" - a most interesting book giving the other side's view of the invasion from 1788 onwards - I think that we have an enormous amount to answer for in our activities over the last 200 years. We are not coping yet with bringing together the people in this community so that, not only will they be in different organisations mixing and taking part together, but also that they will develop between them a national sense of direction and the desire to work together. We have not achieved that as yet in this country and I hope that we will be working to do so in the future.

**SATURDAY MORNING: RESPONSES TO  
INCITEMENT**

LEGISLATION FOR AUSTRALIA: THE ALTERNATIVES

THE HON. A.J. GRASSBY

Former Commissioner for Community Relations

I am very pleased to be here today because over the last seven years the problem of what might be called group libel has been a very real one as far as the Office of the Commissioner for Community Relations is concerned. The Human Rights Commission, in one of its first determinations, looked at the recommendations that I have been making over the years and decided to organise this series of workshops. I would like to say in the presence of the Chairman and the Commissioners that I am personally very happy indeed at the initiative the Human Rights Commission in looking constructively at this problem for the first time in this way.

I intend, firstly, to review what has happened over the years in the context of complaints of group libel. It is important to recognise that the complaints made to the Commissioner for Community Relations result from the right of citizens to complain. It is the responsibility of the Commissioner to look into those complaints. When a matter is raised by the Commissioner for Community Relations, it is not because he has suddenly decided that there was something that needed to be looked at; it is because the law provides that he should and must look at those complaints that have been lodged. When people say "that complaint doesn't matter, that complaint doesn't seem to be very serious", it is most important to remember that it is not the Commissioner who is responsible for lodging the complaints: he is receiving them and dealing with them. It may be that a complaint seems trivial to you. It may even be trivial to me, but it is not up to the Commissioner to make a judgement. It is up to the Commissioner to take the complaint as evidence of hurt and unhappiness, of wounding by an

action, and to do his best to give satisfaction to the complainant. That basic point should be recognised.

While organised propaganda campaigns are relatively rare in Australia these days, day-to-day defamation is endemic. Sometimes it is casual with one-off insults. Sometimes, of course, it is quite deliberately done. The Human Rights Commission earlier this year undertook a survey of the complaints that I have received since 1975, and up to the end of April of this year, nearly 1,200 complaints - separate complaints of racist propaganda - were received and handled. That represented a reservoir of hatred and resentment. They also only represented the tip of the iceberg. What kind of complaints? The biggest body of complaints are those made by Aboriginal people about abuse and discrimination in either a written or a spoken way and, of course, in pamphlets that are deliberately designed to divide the population. Let me give you an example of the nature of the hurt and discrimination being experienced. Not so very long ago in a country town, a man, who has given me permission over the years to use the case - his name was Angus McDonald - was charged with rape. When he was charged, the newspaper in the area published the story under a headline which said HALF CASTE ABORIGINAL CHARGED WITH RAPE. A couple of months later the case duly came to court for resolution, and he was acquitted. He went down to the local newspaper and said to the editor, "I'm Angus McDonald. You ran this story about me being charged with rape". "Yes, that's right". "Well", he said, "you'll be glad to know that I've been acquitted and I've written a headline for you". He gave it to him and it said HALF CASTE SCOTSMAN ACQUITTED OF RAPE. So, of course, he took the point, and the story duly appeared that Angus McDonald, aged 31, was acquitted of rape. That is how it should have been reported in the first instance.

Manuel Aroney last night spoke of the Greek conspiracy. I shall not go over that ground, but it certainly provided a great fund of complaints, because if there is a headline that says GREEK COMMUNITY CHARGED WITH A THOUSAND OFFENCES, what they are talking about is more than half a million people representing five generations, including members of Parliament, a great body of clergymen and everyone else in

the community. The idea of, for example, the Archbishop being the centre of a conspiracy case was, I thought, fascinating. Nobody seemed to see anything fanciful about a half a million people coming together in a conspiracy. Imagine that: five generations of Australians all conspiring together. There were a great many complaints about that implication.

I mentioned to my friend, Mr Creighton Burns, this morning a similar incident which is quite famous and which illustrates an unconscious attitude. It concerned a report which said, "last night an 18 year old nurse was assaulted and raped outside the Melbourne Hospital. The police are looking for a man of typically Yugoslav, Italian and Greek appearance". Which, of course, meant he was either tall and fair, short and dark, or fat or thin or - the permutations are endless. There was another instance which comes from the time when Griffith in New South Wales was effectively dealt with as an international crime centre. A report said that Griffith was the natural place for the Mafia to exist because 60% of the population was Italian. Do you think that is quite reasonable? That is what they wrote. At the time a wedding of a young couple, who had never been in any trouble at all, was reported. Because the wedding happened to be a traditional wedding, it was described as a wedding held "in the tradition of the Godfather", with even the bridegroom arriving in a car reported as having "Mafia wheels". I urged the young couple, quite frankly, to sue. They thought that it was not worthwhile.

Apart from those types of newspaper reports, some of the most horrifying statements are found in the publications and the quite deliberate campaigns of extremists. That is particularly so of the current target, which happens to be the Asians. The play seems to be the same over the last 200 years with only the characters changing from time to time. In other words, racist groups have decided that the Asians are a minority which is small enough to be bullied and harassed. Previously, these groups meted out the same treatment to Southern Europeans, the same to the Lebanese and those from the Middle East, the

same to the Irish. Of course, the Jews and the Aborigines, for all of our 200 years, have always been targets. There is an assumption amongst these extremists that they can get away with their attacks by blaming their victims.

But let us look at some of this material that has been distributed. We have a whole series of pamphlets which describe Asians as bringing in leprosy, syphilis, TB and republicanism, and these pamphlets have been in distribution for a long time. There is one journal which says that the way to cure all the ills of the world is to extirpate Jewry. The idea that 150,000 men, women and children in Australia were going to be extirpated by anybody on the grounds of their race or background is perfectly horrifying. That publication has been in circulation for a long time. There used to be a great many similar attacks made against Southern Europeans In the 1950s particularly, they were said to be coming in hordes - I think that was the term in one pamphlet - and what is more, they were prepared to live in terrible conditions and were breeding like rabbits on the floor. This type of statement would appear quite regularly.

Another phenomenon which should be mentioned in encompassing the various sorts of complaints relates to so-called Irish jokes. Many Irish-born men and women and Irish-Australians make complaints, with great regularity, about Irish jokes. I want to comment about their effect. Not so long ago a woman from Melbourne wrote that at the school attended by her daughter, the class had discussed migration. The conclusion of the students in the class was that migration was good: as there were no Aboriginal people present and they were all migrants of one sort or another, I am glad they thought so. They said that migration was fine except for one group, and that was, the class solemnly decided, the Irish. They were far too dangerous and when they were not dangerous, they were mad. The woman who complained was not Irish, but was Lebanese. She resented the fact that this was an expression of opinion against a considerable section of the Australian population. When she talked of it with her daughter and discussed it with the school,

this attitude was said to have arisen as a result of the dissemination of so-called Irish jokes over the past year by staff members and other people. I do not know how they could possibly resolve it with their duties as teachers.

There was another case which came in, illustrating what the constant denigration of these Irish jokes can produce. It came from a young man who had been admitted within the previous year as a migrant from Ireland with a highly technical skill. Having arrived, he then started on the round of employers. The first employer that he met, after he had stated his qualifications and experience, spent the first half hour of the interview telling him so-called Irish jokes, thereby indicating that he thought cretinism was the standard in Ireland and that it was a poor, ignorant and hopeless country. He did not get the job. He resented that deeply. As a matter of fact, he said to me that if he had not needed the job and had not kept himself under control, he would have punched the interviewer. That is also a product of denigration.

Over the years, we have handled complaints from a stance of good will, because in the Racial Discrimination Act there is no prohibition of racial incitement. I have mentioned that the Aboriginal people represented the biggest single group of complainants in relation to racial discrimination. I have also mentioned the Irish, the Italians, the Greeks, the Jews, Asians and the English. English immigrants, and some Anglo-Australians, have constituted a very large body of complainants, about 5%, and all of these other groups incidentally, apart from the Aboriginal groups, represent about 5% each. In relation to the English, some quite disgraceful situations arise. For example, we received a series of complaints because the proprietor of a service station in Sydney had thought it would improve his business if he put up a very large sign on a main highway which said, "Banish pollution, shoot a Pom a day." You may say that is funny. But it is not funny if you happen to have just arrived in Australia because you may not be too clear whether it is a joke or quite serious.

We talked to the proprietor very firmly and eventually he took down the notice. I stress again that we acted as a matter of good will.

We have taken up all of the 1,200 complaints that we have received and tried to get satisfaction for those that have complained. As part of our general education function, we called a national media conference in 1980, of both the print and electronic •media, where it was agreed that racist stereotypes in the media was undesirable. The conference brought about a marked improvement, particularly in the print media. We have also tried to get to the problem through education, and Lorna Lippmann has been particularly involved on behalf of the Office in conferences and workshops dealing with prejudice in print. We have tried to have publishers, particularly publishers of school material, on the alert for racist material entering school texts. With the help of every State Department of Education, the Federal Department of Education, every Catholic Education Office in all the States and Territories and the independent schools, we carried out a survey of racism in school text-books. Recently a further survey of racism in school text-books was undertaken, which resulted in the publication of a handbook called "Let's End the Slander". The slanders encompass many different people, but the Australians who have suffered the most have, again, been Aboriginal people.

A typical slander was, and this was meant to educate Australian children: "Aboriginal people are very primitive people. They eat fish, animals, plants and anything". Another instance found in a school book said that Aboriginal people are primitive stone-age people who insist on looking after their indigent relatives. I think that answers the concerns of the Department of Social Security rather well. These are both direct quotations.

A further example which I might relate involved me. My daughter, when she was about nine or ten, came home from school

and said, "Daddy, aren't the Indians terrible people. They're cruel, evil, disloyal and awful". I said, "really? There's 600 million of them and they're all alike. Who told you all this?" She said that she had read it at school. I asked her to bring the book home to show me. And there it was, Clive of India, published in London in 1934. It described Indians in exactly those terms. You would be interested to know that I have still have that book. I would not want to destroy such a wonderful example of historic prejudice. You can imagine the effect that material of this kind may have on Australian children.

Our response to the dissemination of racist material is dictated by our powers under the Racial Discrimination Act. When the Racial Discrimination Bill was debated in 1975 there was a prohibition of racist propaganda included in it. The Bill was also intended to provide for the ratification by Australia of the United Nations-sponsored International Convention on the Elimination of All Forms of Racial Discrimination. Article 4 of that Covenant prohibits racist propaganda and racially divisive material. As a result of the Parliamentary debates, it was decided to delete the section prohibiting racist propaganda and it was also decided not to ratify Article 4 of the United Nations Convention. The standard objection was to interference with free speech. What you have to ask yourself is, free for whom to do what and to whom. We are coming down to the debates which will be looked at in the workshops particularly. There should be, I submit, the right of someone who is discriminated against in this way to pursue that complaint. He has none at the moment. If a complaint comes to the Commissioner for Community Relations, all he can do is to operate, as I say again, from a base of good will. At the moment, the law does not offer any recourse. There are no legal restraints to racist propaganda, racist attacks in print, verbally or by pamphlets.

To return to the matters for debate today: I suppose the first debate is about censorship versus non-censorship. Any discussion of this issue soon encounters the second debate which is about freedom of expression versus the maintenance of public

peace. To justify censorship we usually have to invoke a pressing cause, like that of public order, and the argument about whether or not to have free speech becomes in consequence considerably more complicated with the call to strike a balance between the competing values at issue, both of which are good things, but neither of which can prevail uncompromised.

A third issue, and probably the most important, follows from the recognition of the multicultural basis of Australian society. If we ask how the public peace is to be preserved, we find that ultimately we are talking about fostering a society in which individuals can live unharassed for something they cannot help, and that is their colour, ethnic or national origins or their place of birth. We are talking about the right of every individual in Australia to build his or her life in an atmosphere of mutual understanding, tolerance and respect. We are talking about the kind of legislative framework in which the real variety of Australian society is acknowledged for what it is and given some kind of positive recognition.

Let us see what has happened across the world. Most contemporary societies have had to face the problem of racist propaganda in one form or another and the Human Rights Commission has, in particular, looked at politico-judicial systems comparable to Australia, such as the United Kingdom, New Zealand, Canada and the United States. Of these, only the United States has not passed general legislation to control race-hate literature and the like. But many other governments besides these four, particularly in Europe, have felt the need to pass legislation so that they might at least be seen to make a constructive attempt to prevent incitement to race hatred. This is despite their commitment to freedom of comment and controversy. In considering this issue, they have decided that it is important in mixed communities to ensure that people can live unprovoked by bigots and racial propagandists.

The United Kingdom, for example, has had an anti-race propaganda law on the statute books for 17 years first passed

in 1965. They have had legal problems in defining the key words in it. It has not been very effective in practice because successive Attorneys-General have decided that the legislation raises many difficulties, and they have been reluctant to apply it. When the Attorneys-General have taken that attitude then the police and other authorities have followed in their footsteps and thus little has resulted, despite the existence of the legislation.

The New Zealanders followed the United Kingdom's precedent and they passed an anti-incitement Act over a decade ago. There has, again, been a reluctance to act on it and they actually made a major change in 1977 introducing conciliation procedures.

The Canadians moved more than 10 years ago to outlaw group defamation and hate propaganda and a number of Canadian provinces have actually followed this up with statutes of their own. Again, the legislation is not much used. But it has a symbolic worth, which I can appreciate from my own experiences over the last seven years. The existence of a law is an educative thing in itself, because it shows that the community does not approve of certain behaviour. Even though these laws have not been much used, the fact that they are there is an expression of the community's conviction. These laws are all living laws; they are by no means dead letters. It has been recognised, and I make this point very strongly, that the legislation goes hand in glove with education, and all the countries that have chosen this option have been aware of the significance of the law in that respect, of the fundamental and vital importance of education. Workshop no. 1 should provide an opportunity to discuss this in the context of public education and promotion programmes in general.

Different governments have given their own distinctive twist to the prohibitions. Belgium, for example, doubles the fines and doubles the imprisonment for racial incitement if you happen to be a public servant. That is an interesting thought.

I think that the theory is that public servants should be more responsible than others. I make no comment. In contrast to the Commonwealth countries mentioned, Belgium also allows private citizens to take up their own cases, as well as public interest organisations and established special interest groups, provided it is their mandate to defend human rights and fight racism. I suppose the nation which led the way in this area is France, and they have had provisions against forms of racist propaganda for more than 40 years. Their distinctive approach to it is that they reserve the right to have court rulings published in national newspapers at the guilty party's expense. In a recent case of an anti-semitic history professor, the court required such a publication and he got a bill for \$200,000. I must say that anyone who knows anything of France would not think that the French would unnecessarily limit comment, limit controversy, limit legitimate free speech, because they have been among the leaders in preserving it. Nevertheless, for 40 years they have had those prohibitions.

For Australia, the case for legislation, as far as I am concerned, is a strong one. Drawing upon the precedent set in other countries, legislation allows a democratic society the chance to make an unequivocal statement that, in civilized parlance, racist propaganda is completely unacceptable. I think that any legislation should be harnessed to conciliation and arbitration machinery. The emphasis of the whole of our operations over seven years has been on conciliation and I would not change that. Of all the countries in the world our own legislation so far has been the strongest in relation to conciliation. Of all the complaints, the 5,000 complaints that have been received, investigated and conciliated upon, there has been success in conciliation in all but 10 of them, and half of those related to the Government of Queensland. So workshop no. 2 will be looking in detail at conciliation and other procedures and I would like to think that that workshop would have a look at ways and means of giving the citizen the right to defend himself against these attacks.

I would submit that all of this can and, in fact, has been done and is being done today without undue interference to freedom of expression. In none of the large number of countries that have introduced laws of this sort can it be said that legitimate comment and controversy has been curtailed. Legislation has been established as a legitimate weapon in the armoury of the concerned anti-racist. It also has an important role to play in constructing the consensual frame-work that must underpin such a mixed society as our own if all in it are to get a fair go. What kind of legislation can be contemplated? There are seven points that I am going to put forward for your consideration, particularly in the workshops.

A good law will define who it is we seek to protect and whose life chances we want to promote. It will do this with some precision. It also requires some clarification of the issue of group defamation and the possibility of having class actions that allow the claims of a number of people to be brought together against the one defendant and for damages that would accrue to all.

Two, it will define what media, spoken, written, worn or whatever, we should monitor and where the line between public and private should be drawn. Three, it will also describe what acts are prohibited, from mere bad-mouthing all the way to outright threats of violence. Four, it will list the consequences deemed deleterious such as potential or actual

or hatred or hostility. Five, it will consider the question of intent and whether the racist propagandist need behave wilfully to contravene the law. That is a very important point because my preception is that so much of the problem in Australia is wrapped around what I have described as attitudinal discrimination. The legislation would list acceptable defences and would consider the sorts of sanctions deemed most appropriate. While we have examples from overseas of answers to these issues, none of them can be taken as read. They deserve closer scrutiny and the workshops provide an opportunity to do just that. I think it is up to us, based on Australia's

experience, to reach our own conclusions as to what we think might be most effective in each case. Enough has happened overseas to give us an idea of where the potential problems might lie. It still remains for us to adapt the lessons they provide to the multicultural environment of Australia today.

Before I conclude I think I should, in fairness, say what I believe. I have recommended in my various reports to the Parliament and in the current, and last, report which will be tabled in the new year, that there should be a simple one-line prohibition of racial discrimination in the Racial Discrimination Act. That would enable people to make their complaints as they do at the present time, but it would give the Commissioner the opportunity to go forward with authority, an authority based on conciliation. I would urge that if the conciliation fails, we follow the procedures that we do in other cases, and that a certificate is issued which enables the aggrieved party to seek redress in the Supreme Court of the State or Territory. To enable someone to do that, there should also be a provision for a class action where group slander is involved. I have also recommended that Article 4 of the International Covenant on the Elimination of All Forms of Racial Discrimination be ratified. I think, from my point of view, this represents a simple and direct way of giving the man or woman, who has been traduced and put down, the right of protection for themselves and their background and their heritage. Again, it is based on conciliation. That is my personal conviction which I have set out in at least five reports to the national Parliament and you might also like to consider them in the workshops today.

THE CASE FOR COMMUNITY ACTION

MR CREIGHTON BURNS

Editor of "The Age"

Racism and war have been the greatest tragedies - and the gravest affronts to civilization - of our generation.

Their interconnection is indisputable; each is both a contributory cause and a consequence of the other. To measure the extent of human misery they have wrought, look only if you will, at the Jewish holocaust in Europe, the death toll produced by the Hindu-Moslem partition of the Indian sub-continent and by the wars in Indo-China. At a lower but still obscene level, look too at the racial persecution which accompanied and has followed the struggles for national independence in Asia, Africa and Latin America.

By comparison, Australia can count itself fortunate, although the continued denial of land rights, economic opportunities and human dignity to Aboriginal Australians and the persistence of covert racism throughout the community remain.

That having been acknowledged, it is important to see the problem of racism in Australia in perspective and in its recent historical context.

I would argue that, given Australia's early history and its more recent experience, the level of racism in Australia - both overt and covert - has been lower in the last generation than might reasonably have been anticipated.

Mass immigration to Australia in the post-war period has dramatically changed the nation's demographic profile. Today, and for the past decade, at least one Australian in five

is foreign-born and one in three is foreign-born or the child of migrant parents. They are figures which parallel, if they do not exceed, the impact of immigration into the United States at the peak of its "melting pot" experience at the turn of the century.

The consequence, in terms of heightened racial tension and prejudice, of this demographic revolution has been less than might have been expected; less certainly than those of us who had reached adulthood by the end of World War II anticipated.

Certainly my own experience, as a child growing up in a lower middle-class outer suburb of Melbourne in the 1930s (where religious intolerance was widespread although not deep), and during the war (when xenophobia was legitimised by fear and patriotism) led me to expect that mass immigration after the war would be a traumatic and divisive experience.

That expectation has not yet been fulfilled. And that I find encouraging and remarkable, even inexplicable.

This is not to say that racial prejudice and a degree of racial discrimination (although one difficult to measure) are not persisting phenomena in the Australian community.

How deep and pervasive are they? Personal experience is one legitimate measure. The study of literature and language another. The observation of behaviour in the workplace and on the streets is a third, and perhaps more telling one.

Yet another was taken by an A.N.O.P. Poll published in "The National Times" in September last year. It showed, amongst other things, that:

30% of Australians would prefer to live in a mixed-race society while 55% would prefer to live in a community consisting of people from "basically white English speaking backgrounds".

- 25% of Australians were most fearful of a deteriorating economic situation (unemployment, rising costs, economic stagnation) while only 4% nominated racial unrest and tension as their predominant fear for the next 10 years.

The questions we need to ask ourselves are:

- What are the circumstances which might lead us to believe that racism is becoming, or is likely to become an increasing threat to social stability, to the rights of individuals or groups and their ability to live full and unconstrained lives in a free, stable and pluralistic society?
- And, secondly, if racism is increasing, or likely to increase, are there good reasons to seek new means and methods of containing and repelling it - means and methods which we have not felt compelled to use in the past?

The relationship between the two questions is important. For I would argue strongly that every society should seek methods of social management appropriate to its existing, or realistically anticipated circumstances; that to impose methods of social management or control which are excessive is not only ideologically offensive, but likely to cause tensions and divisions which might otherwise be avoided.

Take the analogy of crime and punishment. Is capital punishment appropriate or necessary as a penalty for murder? I would argue that it is not in a society which is comparatively stable, where the taking of life is abhorrent and where there is no compelling evidence to support the proposition that capital punishment is an effective deterrent to murder. However, in a "frontier society" capital punishment may not only be an effective, if partial, deterrent to murder, but also a necessary way for society to assert the value of the sanctity of human life.

This is not, I hope, the irrelevancy that it may seem. For I hope it may lead me eventually to the proposition that new legislative restraints may not be a necessary step in containing racism in Australia - or the most effective way of do so.

To return to my first question: what are the factors which might lead us to believe that racism is becoming, or likely to become, an increasing threat to social stability and to individual and group rights in Australia?

There are, I think, four factors or trends which might pre-dispose us to believe that racism in Australia could become an increasingly relevant phenomenon.

First, there is a growing awareness in the community of the deprivations and constraints which the still predominately white and Anglo-Saxon community continues to impose on the Aboriginal people. If any of us need reminding of this, the tragic events in Moree last weekend have surely served their purpose. There is also, in this context, the growing confidence with which the Aboriginal people are asserting their rights to tribal lands, to equality of opportunity and to dignity within the community.

Secondly, the issue of Asian immigration and, therefore, the possibility of harder and more socially disruptive discrimination against Asian migrants, is coming into sharper focus.

This is happening as a direct result of the immigration reforms of the last 20 years. It is also the immediate consequence of growing pressure for Asian immigration arising most immediately from the aftermath of the Indo-China war and from the waves of "boat people" it produced, many genuine political refugees, others seeking a better standard of living and way of life.

The influx of "boat people" has sharpened for the Australian community the difficult question of how many - and which - of these tragic people we should admit.

It is a potentially divisive problem. To quote again from last year's A.N.O.P. study, while 34% of Australians say that Asian immigration culturally enriches our lives, a large and significant minority sees Asian immigration as a threat. Twenty-two percent say Asian immigrants could take jobs away from Australians, 9% think it is difficult for them to assimilate, 8% believe they could "take over" and 7% claim they could cause race problems.

There can be little doubt that colour has been one of the strongest indicators of race and, therefore, a major element in racism for many Australians over the generations.

Many of you may remember the slogan painted on the corrugated iron fence of Ma Daley's Junk Yard which stood, until I believe the late 1950s, at the corner of Flemington Road and Elizabeth Street. It read: "For a free, white, protestant, democratic Australia - vote ALP".

Today, the strongest and loudest proponents of the fallacious doctrine of racial purity in Australia - and for whom racial purity means Anglo-Saxon inheritance - have been driven by experience and the pressure of public opinion, to suppress, if not abandon, their opposition to non-Anglo-Saxon immigration. However, they still maintain a bitter and bigoted opposition to Asian or coloured migrants.

The third reason for concern at the rising tempo of racism arises from evidence of increasing anti-semitism - the oldest, most persistent and most pernicious form of racism which has eroded western civilisation over the centuries.

Fears of growing anti-semitism arise from the growing assertiveness of many Arab regimes, especially those espousing

fundamentalist Muslim theocratic ideologies and from the PLO's capacity, while presently in military and political disarray, to command and more effectively exploit political and public sympathy in the western democracies.

They arise too from Israel's beleaguered situation in the Middle East, combined with the growing assertiveness of the present Israeli administration and from evidence that it is increasingly at odds with many of its oldest supporters, especially the United States, over both the manner in which the search for peace in the Middle East should proceed and the Begin Government's assertion of de facto rights on the West Bank and the Gaza Strip.

There is a fourth reason for believing that racism may become an increasing problem in the Australian community and it is probably the most threatening factor of all. That is the persisting economic recession which is creating a squeeze especially on employment opportunities, living standards and on budgetary allocations to institutions, organisations and services attempting to sustain the difficult transition to a multicultural society.

There is, I believe, much evidence from Australian history (and from the history of other roughly comparable societies, especially the United States) to suggest that hard economic times have exacerbated racial tensions in the community, providing an apparent (but eventually phoney) rationalisation for those who would argue that economic rewards should be rationed not only according to class, but also according to community.

I personally believe that one of the reasons the predominately Anglo-Saxon Australian community adapted to the dramatic influx of European migrants as well as they did in the years immediately after the war was because we enjoyed a period of high economic growth and opportunity.

Similarly, I believe that if there is an observable increase in the level of racial tension and racial discrimination in the immediate future, it will be largely the product of worsening economic conditions and a more savage competition for jobs and income differentials. Unskilled ethnic workers will be both the scapegoats and the victims of growing unemployment. Their situation would be even more exposed if the business community did succeed in negotiating under-award payments, because the more unskilled ethnic workers choose to exploit that situation (as I believe they would be forced to do) the more they would be blamed for "taking our jobs".

Let me come now to the second question I raised earlier: if racism is increasing or likely to increase (and I have just suggested reasons for thinking that it might), are there good reasons to seek new means and methods of containing and repelling it?

Or, to put it bluntly, do we need new legislation to police and punish the incitement of racial prejudice?

The answer, I believe, is "no". Or rather, it is - "not yet. Not unless there is a clear and present danger - firm and incontrovertible evidence that the incitement to racial prejudice and violence is biting into the community and that other methods to contain it have failed".

There are, I think, three arguments which support that proposition. They are:

1. Ideological. The argument in favour of freedom of speech.
2. Experiential. Attempts to legislate virtue in the United Kingdom, New Zealand and Canada have not been particularly successful to say the least, and, to some extent, have been counter-productive.

3. Pragmatic. There are better, more effective, even if more expensive, ways of creating the conditions in which racial prejudice is unlikely to take more effective root.

In short, the simple thesis I am arguing is that racism is managed best by social re-organisation, not by legislative restriction and judicial discipline. Or to put it plainly, but I hope not offensively, those who advocate legislating social virtue misunderstand the process of social change.

Before I return briefly to the three arguments I mentioned, let me say what I am not saying.

I am not saying that there is a form of social organisation, a process of social management, which will produce a society in which there is no tension and violence, no aggression or discrimination.

I do not believe in the perfectibility of human nature or society. I do not even believe that political and social problems can be solved. Rather, I simply believe that the best one can do is to improve one's position on the board; that good policies are those which bring about an improvement in social relations and a greater amount of happiness for a greater number of people.

To return to my three arguments. The first is not only ideological, it is personal. By upbringing, education and experience I am committed to those social principles (label them as you wish) which trace back through 19th Century liberals like John Stuart Mill to John Milton and the Independents and Levellers of the English Revolution, or through the other strand, the American Revolutionary strand, to Thomas Jefferson.

If there are texts for this position the first is to be found in Milton's "Areopagitica", the words of which I can still hear Professor Kathleen Fitzpatrick intoning in, if I am not mistaken, this very Lecture Hall.

"I cannot praise a fugitive and cloistered virtue, unexercised and unbreathed, that never sallies out and sees her adversary, but slinks out of the race, where that immortal garland is to be run for, not without dust and heat."

And the second in Thomas Jefferson's courageous commitment to the forced choice when he wrote:

"Were it left to me to decide whether we should have a government without newspapers, or newspapers without a government, I should not hesitate a moment to prefer the latter."

You may feel, perhaps, that this commitment to freedom of speech derives from my occupation, first as a teacher, more lately as a journalist. But if there is a causal relation there, it is exactly the reverse.

My second argument comes from the experience of those communities which have attempted to legislate virtue, specifically by the introduction of laws which provide penalties for incitement to racial violence, prejudice or discrimination. Here I am heavily indebted to the two lucid and admirably balanced papers produced by Dr Pettman.\*

I would simply draw your attention:

First, to the difficulty of drafting laws to prohibit incitement without seriously infringing freedom of speech.

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See Occasional Papers No. 1 and No. 2 on Incitement to Racial Hatred, Human Rights Commission, A.G.P.S., Canberra, 1982.

Secondly, to the difficulty of making a conviction stick when laws to suppress incitement to racial prejudice are drafted in a manner which acknowledges a residual or minimum commitment to freedom of speech. (See, e.g. the Read case in Britain in 1976 and the single Canadian experience regarding Buzzanga Durocher in 1977).

Thirdly, the real danger that failed prosecutions will simply provide publicity and a false legitimisation for the advocates of racial discrimination and disharmony.

I would further point out that laws already exist to prosecute those whose acts infringe the personal or property right of ethnic individuals and groups or disrupt public order.

However, if we are ever forced by circumstances to go down the track of legislating to prevent incitement, I hope we will have the courage to do it in a rigorous manner and introduce the concept of class actions. For all their corruption in other regards in American judicial practice, class actions in the matter of racial discrimination would at least serve to underscore the community's concern about the incitement of prejudice against groups as groups, and not simply the social slander of individuals.

My third argument, which finally brings me to the nub of the matter, is that there are better and more effective ways of eliminating social prejudice.

One set of actions involves strengthening the existing institutions (which admittedly are founded in legislation) concerned with prejudice, discrimination and opportunity. I am thinking particularly of the Commonwealth Office of the Commissioner for Community Relations, the Human Rights Commission, the States' Equal Opportunities Boards and the Commonwealth and State Public Service Boards.

The allocation of greater resources to conciliation and arbitration functions in the area of community relations would help; so too would greater resources for those kinds of organisations to propagandise their causes. (You see, I am not opposed to loading the dice when it is in favour of freedom of speech, association and action.)

The second set of policies, which I believe would better serve the cause of racial harmony than legislation aimed at incitement, concern institutions which are already part of the social and political fabric and which affect our day-to-day relations in neighbourhoods and workplaces.

The first, and perhaps most important of those, is the education system. Here I am not looking particularly to changes in the curricula, although I do not doubt that better teachers and teaching and better courses in areas such as human biology and social anthropology would be a real contribution. Rather, I am looking to changes in structure of the education system; especially more equal educational opportunity and the positive discouragement of schools in which employment is restricted in practice to the adherents of a particular sect or community and where the values taught are exclusive.

(I am not calling for anything like the abolition of the private school system. I am simply suggesting that the balance between public and private education should not be tipped in favour of the private schools and that private schools should be discouraged from imposing exclusive and fundamentalist values on their students.)

One important element in this regard is the fostering of a greater equality of educational opportunity. For that is part of the key to greater employment opportunity. And there is much evidence that those communities in this society which were the subject of ridicule and discrimination so long as they were restricted largely to unskilled and semi-skilled occupations, began to escape that invidious situation when they gained entry

to the better rewarded occupations and professions. For example, the Irish, and more lately the Italians.

Secondly, there is a cluster of social decision-making institutions in which precept and education might accelerate the process of social, cultural and racial integration which is already taking place as a result of demographic trends.

I am thinking here of political parties, trade unions, employer organisations, even corporations and businesses. It is not just football teams and orchestras which these days show the marks of cultural pluralism. Slowly the process has begun in political parties, trade unions and the business community. The consequences of this cyclical process is to restrain racial and cultural discrimination.

Thirdly, a process has already begun, and could be encouraged by administrative and financial support, in which individual ethnic organisations are beginning to reach out to other ethnic organisations.

For example, the Italian Community in Melbourne has, for some years, run an Annual Italian Festival. It is now planning a Multicultural Festival. That takes confidence and courage. But it points, in a minor way, to the manner in which cultural diversity can be preserved without reinforcing cultural distinctions.

Again, there is a range of community welfare organisations (child care, social welfare in particular) where supportive functions serve to break down distinctions not only between income and neighbourhood groups, but also between ethnic communities.

And, if I knew a way in which it could be done, I would be advocating the creation of neighbourhood and block communities like those which are beginning to appear in the United States, albeit often for reasons of security.

Finally, of course, there is the media. It is often argued that press, radio and television in Australia operate too often to reinforce racial stereotypes and, in so doing, contribute to a continuing or even higher level of racial prejudice and tension. I would not deny that proposition, although I think some individual accusations and case studies have been ill-founded and I am not sure how far that charge against the media can be fairly pressed.

I would, however, point out two things. First, newspapers are more - considerably more - the reflections of social standards and values than they are the moulders of them. And secondly, while the mechanisms for criticism of, and self-criticism by, the press are primitive and deficient, they do exist. I refer you to the report, published by at least one Melbourne newspaper yesterday morning, of the Australian Press Council's Annual Report which showed that Aboriginal support groups at least have had the good sense to exploit this admittedly inadequate method of educating the press by calling it to account.

There is undoubtedly an important educative role for the press. We would be performing it better if we abided by the kind of ground rules laid down at the Monash seminar last year and published in the Monash pamphlet "Prejudice in Print".\* But I would caution against expecting a significant improvement in the performance of the press to have a dramatic effect on the level of racial tension.

To conclude, I have attempted to argue:

- First, that there are signs that racial discrimination may well increase in Australia in the coming years.

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\* R. and H. Rasmussen (Eds.), Prejudice in Print: The Treatment of Ethnic Minorities in Published Works, Monash University, Melbourne, 1982.

- Secondly, that even so, we would be wiser to look for solutions in better social organisation (especially greater and more equal education and employment opportunity) than in further constraints on freedom of speech.
  
- Lastly, that patterns of human behaviour and human relationships are in general more responsive to changes in social organisations than to values imposed from above.

It is an admittedly modest and conservative thesis. But that, to me at least, is in its favour.



SATURDAY AFTERNOON

## Reports from the Workshops

The Conference divided into workshop sessions to discuss in more detail the various issues raised. In particular, Mr Grassby's proposal for legislative initiatives to combat the evil of racist statements was examined. Likewise, the features of Mr Burns' alternative of general social reforms, such as increased educational, occupational and political opportunities which attempt to strike at the cause of racist activities in the community, was examined.

Workshop No. 1 examined the roles of both dispute-resolution institutions and public education and promotion programs as part of a community-based response to racist propaganda.

Workshop No. 2 considered the value of providing a legislative response to racist literature, the abuses to which legislation could be applied and the form that any legislative statement of an offence of inciting racial disharmony, and the defences to it, should take.

Workshop No. 1 - Community Responses

Reporter: MS ELIZABETH HASTINGS  
Member Of the Human Rights Commission

There was a lot of material to be considered in our workshop, so we divided in half. One half looked at dispute-resolving institutions and the second half was on public education and promotion in terms of racist propaganda.

Dr Ian Siggins spoke first about dispute-resolving institutions, identifying them as either formal or informal bodies, and mentioned some of the issues which are relevant. With regard to formal institutions, some concerns are:-

- (1) the difficulty in maintaining a power balance between the complainant and respondent so that each feels equally powerful (usually, of course, it is the complainant that feels least powerful);
- (2) the necessity of maintaining the autonomy of the investigators or conciliators so that they may be seen as being unbiased; and
- (3) the problem of meeting the competing demands of conciliation and litigation.

The problem with litigation based on legislation is that statutes tend to produce a situation in which the dispute-resolving institution gets caught up in what could be seen as a series of separate instances, each of which is individually important. but none of which of themselves challenge, examine, research or educate about the societal structures which produce racial propaganda or which encourage and exacerbate its presence. These are the kinds of issues that we could only begin to discuss.

The continued use of existing frameworks and networks for conciliation was proposed. The present methods of dispute resolution basically are working well at the moment, even though there may be lapses in certain places. It was difficult to talk about dispute resolution without talking about public education and promotion, because ultimately dispute resolution, if it works well, is an educational process in which the resolutions have more long-lasting effects than a simple punitive response would do in a particular instance.

It was also recognised that there was still a need for some legislative base or legal statement which, in a sense, encapsulated what we hope is a community feeling about racial propaganda: that it is unacceptable in this community. Even though this base need not provide a directly punitive measure, it should give people the support that they need when they are trying to conciliate, educate and arbitrate in the unpleasant situations that arise through racial propaganda. Most people working in this area believe that they need the support of that kind of statement from Parliament, from the legislature, from the people.

When moving from a consideration of dispute resolution to one of public education, we discussed the question of distribution of resources in our community and the desirability or otherwise of creating large centralised organisations for handling these issues. Whilst there was a call for a centralised body through which the issues of incitement may be filtered and acted upon, what is considered most important is that each local community should benefit from being provided with the resources to deal with those issues relevant to that community at that particular time. We could not come up with a specific proposal on this issue, but a downward distribution of resources to the grass roots might be an appropriate way to help with this kind of dispute resolution. Not that people be left to fight their own battles in a vacuum. The powerlessness of communities facing these problems must be recognised and, where

possible, rectified. They should have access to resources of information, finances, techniques - the general kind of resources that all of us tend to take for granted and which give us the power to fight our own battles - and these resources should be filtered down to those communities which are most disadvantaged by racial propaganda and who are at the moment the least powerful to act in their own defence.

Consideration of resource allocation led onto the question of public education. The first principle must be that whoever is educating the public must consult at a meaningful, significant and respectful level with those disadvantaged communities. An instance was mentioned of a record that had a catch-line about Greeks saying "I'm as Greek as a souvlaki". This was quite offensive to the Greek community and yet was probably done out of the goodness of somebody's heart. This offence would not have occurred if there had been consultation with the Greek community.

It was also felt that it is extremely important that any system of education or conflict resolution be one which is readily accessible to those who are disadvantaged. Many believe that our current bureaucratic systems tend to be inaccessible, no matter how hard people try, to those who are most in need of them. Perhaps they are merely emotionally inaccessible in terms of being in big organisations or centralised kinds of places with fancy names. Accessibility to the public must always be essential if we are to be effective.

It must be remembered that organisations such as the Ethnic Communities' Council brought together for the first time a lot of people who were themselves victims of prejudice and propaganda in our community, but who also in their turn dealt out prejudice and propaganda to others. Some of these communities got together and talked to each other for the first time under the auspices of the Ethnic Communities' Council and, in fact, began to communicate in a way which gave them some effective power.

Teachers, at present, also have unmet needs for support and education as they can find themselves in situations of racial prejudice in classrooms or of having to deal with racist propaganda without the skills or training with which to counter it effectively. Pat O'Shane told us of one thing which she has done, which was to throw the history book out of the window in front of the whole class and get them to rewrite Australian history and their own ethnic kind of histories from their own experience rather than being told, for example, that Aborigines are primitive and eat witchetty grubs, which is not conducive to developing a comprehensive sense of one's culture. In public education, it is necessary to broaden, enrich and strengthen the cultural base of the community in the classroom. Our cultural base is very polyglot, but despite the fact that we have a cosmopolitan culture, most of us are not familiar with the diversity of the environment in which we are embedded. Towards the end of our session, we were getting very excited and creative about the uses of education as a means of transferring power.

In terms of racial propaganda, education offers the opportunity to transfer the means of self-definition to the underprivileged or disadvantaged. Any education and promotion that we undertake must respect and value the experiences of the people who suffer from prejudice and propaganda.

## Workshop No. 2 - Legal Responses

Reporter: DR GUY POWLES

Senior Lecturer in Law, Monash University

Our workshop was not altogether clear whether we were to talk solely about the concept of prosecution and legislative action taken against those who promote racial hatred and hostility or whether we should also be considering all possible legislative means of approaching the problem. Workshop No. I considered the impact of legislation both from the normative point of view of the extent to which such legislation might assist generally in raising public conscious, and from the point of providing some means of bringing people together to settle differences by promoting conciliation processes. We left the matter entirely open and I think it would be fair to say that we covered the whole gamut of ways in which there might be legislative provisions. In fact, I cannot summarise for you the wide range of the various contributions that came out in the workshop. It was quite impossible for us to divide the discussion between the various elements to be considered, so we had a short introduction and then discussed these elements altogether as a sort of a mixed bag.

Thus, the first issue we covered was the question of whom the legislation should protect and we were concerned with problems of whether one is looking at race or religion and also the issue of protection of groups and individuals. I do not think there are any great difficulties with that aspect of our task.

die second area, which again does not cause a great deal of difficulty, is the question of modes of publication. Although we had an excellent presentation on the subject, there was little discussion on what the modes of publications might be or ought to be. Clearly, we were looking at publication to the

world at large and were not looking at the opportunities of individuals to take up situations in which they have been discriminated against in a private way.

The third area that we looked at was the consequences to be proscribed. The problem under consideration is the objectives of the legislation. The public order element was clearly seen to be unsatisfactory as an objective. In other words, preservation of public order is not the sole concern of the legislation. Just how much wider one goes, we did not really consider in any detail. I was very much impressed with the basic dilemma facing the Commission, because there is a necessity to resolve the conflict between the two fundamental rights and freedoms. On the one hand, there does not seem to be any doubt that freedom of speech and expression is a fundamental right that everybody wants to protect, but some see it higher in the order of priorities than others. How, then, does one describe the second fundamental right and freedom? If one simply says it is freedom from civil disorder, then such a right can be coped with. There were at least one or two people in our workshop who felt that this was all that was involved. However, right at the other end of the spectrum, there is a much broader definition of the fundamental value concerned. I would like to quote from the words used by the British Columbian lawyer, John McAlpine, quoted in a Commission paper.\* There he says that the value that he sees being involved is the recognition of the "dignity and worth of each person to live without discrimination ... the inherent right of every citizen has of equal opportunity ... the right to make his or her life and to feel part of the community, without being hindered ... to grow up and live in a climate of understanding and mutual respect". Now, how does one summarise that, as a right or a freedom or a liberty? If that is what the Commission is hoping to do,

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\* See Human Rights Commission Occasional Paper No. 2, Incitement to Racial Hatred: The International Experience, AGPS, Canberra, 1982, at page 25.

objective is taken right away from concerns merely of civil disorder. It becomes much more difficult to think in terms of racial hostility and hatred because those terms do not cover the casual, but harmful, discrimination and prejudice that is clearly embodied in the wider definition that John McAlpine has set out.

In fact one might have to consider whether the expression "promotion of superiority" or "promotion of inferiority" of a person or a group of people is an expression that should be included in the legislation. That, as I understand it, is the terminology which is incorporated in British Columbia's legislation. If the consequences to be proscribed go so far as trying to deal with conduct which promotes feelings of superiority and the resentment that follows it, the legislation must be looked at extremely carefully. One then goes on to consider, in the context of these consequences to be proscribed, what the defences might be if there was to be such a prohibition or a proscription, and clearly the defences will depend on the scope and the elements of the offences in each particular case. But the wider one spreads the net to catch conduct, then the more careful one has to be to ensure that a person, who has behaved in a manner which he or she considers to have been legal and proper and not within the definition of the offence, can present such a defence of lack of intent.

I think the best means of summing up the way our workshop proceeded is to say that there were a number of concerns expressed, and that those concerns can, by no means, be summarised as resulting in a shared feeling. Many of the concerns were conflicting. One concern that was expressed was a proposal to repeal the Racial Discrimination Act 1975 altogether, and there were several people in the workshop who believed that that step should be taken. I think it would be fair to say that they believe that the word "racist" itself is inflammatory and that further legislation and government

intervention in this area is simply neither justified nor called for. Whether describing the growing concern over racism as being inflammatory is putting the cause before the effect, I am not quite sure. My own view is that racist and racism are words that have been devised to describe a condition rather than the other way around.

The proposal to amend the existing legislation, by introducing an offence prohibiting incitement, involves discussion of the nature of the wrong in terms of whether it is to be a private matter or a matter of public interest. If it is a private matter, the question is left open of whether it is better to deal with it by civil proceedings, starting with a complaint that may be followed by compulsory conciliation and, if it too fails, a civil action as opposed to prosecution. There is the question also of how one deals with prejudicial conduct and racial propaganda which is of concern to a group of people. This clearly involves the matter of class actions and the very difficult question of whether action in this area should be limited to a class action. In other words, should an individual be able to initiate and bring forward a prosecution for something which many people might feel is much more the concern of a group? Such a prosecution perhaps should not proceed unless it can be established that the feelings of the individual are shared by a group and that only when the group responds should the proceedings go ahead.

Some concern was expressed as to the nature of the hearing that might take place. Once there is an offence, and a defence is brought forward, what would be the nature of that hearing and what would be the forum? At least one person in our workshop thought that it would be undesirable to allow more opportunity than is necessary to those people so charged who may only wish to obtain a further opportunity to publicise their views. Putting it around the other way, it may be said that there was a desire to deny a public forum to those who would further air their racist views.

There is a conflict between that desire and the other equally strongly held concern for the individual's right to a full defence when that individual is prosecuted in the courts of the land. These considerations must clearly be weighed carefully by the Commission. The way in which the offence is defined and the way in which the defences are defined will obviously have a bearing on whether or not there is such a public airing open to the protagonist in a particular case. If you say that a defence to a charge of incitement of racial hatred is that "I believe that what I said is true" or that "I believe that it is fair comment and that it is in the public interest", you thereby open an opportunity for people to come out and debate the very things which many other people would feel are simply not debatable and which other people again may say would only further stir up racial tensions in the community. The problem of whether that type of defence should be available must be overcome. There are other more technical defences. If one is looking at a prosecution for conduct which is public, a clear, if technical, defence may arise that what was said on the occasion in question was not in public. That type of defence may well have to be allowed. There are other defences that lawyers call privilege. If somebody is reporting fairly an account of what happened in a court or in Parliament one would not be liable simply on the basis of either reporting or publishing the account. This is, again, a technical matter. There is another more difficult defence. What about the case of somebody who says "I just didn't mean to do it, I didn't intend to incite hostility and hatred". That defence could be used by a person in seeking a public forum to come out again and say well "I didn't intend to incite hostility but I meant what I said". Or you might have the difficulty of somebody who honestly and quite sincerely was guilty of a racist remark, without intending to have hurt anybody. There are a whole range of offences and defences to be considered. Who might be proceeded against and for what are going to be questions of the utmost difficulty for the Commission.

I would like to conclude on a note which is not a hopeful one because we in the workshop, and all of us in this conference, have had before us examples of what has occurred overseas. We also have the International Covenants and Conventions. The Convention on Racial Discrimination is very widely drawn and we realise that it requires us in Australia, if we are to adopt that Convention, to outlaw all dissemination of ideas based on racial superiority or hatred and incitement to racial discrimination. If we appreciate the extraordinary breadth of that prohibition, then I think that we have some understanding of the difficulties facing the Commission. One would like to think that our workshop considered a range of ideas as to how Australia might measure up to the provisions of that Convention. Together we have learned rather than reached conclusions. Speaking for myself, I have become considerably more knowledgeable in this area and I would like to think that our workshop engaged in a self-educative exercise even if nothing else.

RECAPITULATION AND CONCLUDING COMMENTS

SIR JAMES GOBBO

Justice of the Supreme Court of Victoria

The logical point to commence the recapitulation is to ask: "What did we come together for?" As I understood it, our conference was to address itself to two main matters. The Commission's first desire was to ascertain what was the level of community feeling in relation to incitement to racial hatred and racist propaganda; or, to put it another way, what was the degree of public mischief or evil to which any legislative change, or other measures, were to be directed. And secondly, given that public consultation, which obviously could not be completed simply in one day's proceedings, it was necessary that types of response, both legislative and non-legislative, should be considered.

The first purpose of this conference was covered last night. The levels of racial abuse or even examples of propaganda which the several speakers recounted reflected, for the most part, their own particular experiences, rather than instances of systematically organised activity on the part of those hostile to the speaker's ethnic group or racial background. Nonetheless, these experiences are important because the people who press for change and who feel most wounded by racist propaganda activity are those who have already been subjected to such propaganda.

It is not very often that one is able to assemble a group to analyse all aspects of discrimination and recount how its members have been affected. That is not really how the ethnic communities operate. No doubt, they can work through spokesmen from time to time. However, they are not monolithic and cohesive communities that can supply the kind of hard evidence that some, for example, lawyers, would be looking for.

Of necessity, one comes back to personal recollections a great deal and one is obliged not to treat them as being insufficient.

The impact of racist material on children was stressed by many of the speakers because, insofar as the effectiveness of any propaganda is concerned, it is probably at its worst amongst children, both because of the inhibitions and tensions it creates and the divisions among cultures that it sometimes provokes. A mature person would not suffer as much from these harmful effects. A grown-up person has made his way in this community: his dignity may be offended by some forms of attack, but his development as a person would not really be affected. The evil, however, for children relates to the effect it has upon them in their capacity to absorb, mingle and participate in the education system and activities that is offered them.

Some said during the course of this morning that there had been too much emphasis on racial discrimination; that we had forgotten the success stories; that we had forgotten that by international standards we have a low level of racial discrimination and racial tension in this country; and that, therefore, to pre-occupy ourselves with these matters is to lose our sense of balance. On the other hand, one has to bear in mind that the Commission, as the Chairman has pointed out, is concerned not only with the majority of the people, but also with protecting the rights of minorities. This consideration led to a comprehensive review by Mr Al Grassby of the experience thus far under the existing legislation. I will come back to one aspect of that in a moment. You will recollect also that there were quite a number of people who came forward to say that, in the past, there has been a substantial level of racial discrimination and that there is more coming. In that context, you will remember that Creighton Burns made some points in explanation of what was unfolding. He basically said that there were four reasons why racism was likely to get worse and the reasons he gave were:

- (1) the evident increase of tension in relation to the attempts by Aborigines to secure reforms;

- (2) the matter of Asian immigration and the fact that there was a possibility of controversy as a result of pressure for family reunions by those Asian migrants who have been admitted to this country;
- (3) some considerable evidence of rising anti-semitism in this country; and
- (4) the persistent economic recession which in all the forecasts will get worse. Historically, we know that the worst incidents of racial tension have occurred when linked with economic factors. It might fairly be said that the White Australia Policy was born out of economic factors and tensions or misapprehensions. It is necessary to avoid people seeing history as repeating itself. Clearly, present circumstances are not the same as those that gave rise to past discrimination, as Ken Rivett\* would point out, but some people might believe that they are.

If this is what is in store for us, and if the evil or mischief of racial tension to which we are addressing ourselves may increase, how should we try to categorise it? That is where we found some difficulties in the course of the discussion. I tend to see the problem as involving three categories of people that need a measure of attention. There is, first of all, a very wide category, namely, abuse of individuals in a fairly widely disseminated manner, but not taking any organised form. That is what individuals were really recounting when they gave their personal experiences.

A second category, which should be taken separately, is that of media comments holding particular groups up for contempt. That category did not get a great deal of attention

today because, on the whole, it was not thought to be a critical matter. On the other hand, I venture to suggest that if you went around the ethnic communities, the things that hurt most are the matters that appear in the media. Quite a number of members of ethnic communities have had no experience of direct racial insult, and certainly quite a number have had no experience of reading organised propaganda. Yet anybody can give you examples of items which they have read in the paper and found personally offensive - personally offensive in the sense that the item offended the group to which they belong. When we are looking at options, we cannot ignore this middle category. The third category is the organised racist propaganda, usually posed in extreme terms.

Now let us turn to courses of action. A number were considered during the day and speakers were at pains to point out the obvious fact that we ought not to treat these as being exclusive, and that we ought to be sure that we can see them sometimes in combination. The first main course of action was some form of social-community or social-organisational response. Creighton Burns described a whole range of options that could be pursued, and fully at the centre was education. You have just had a very clear summary of many of the factors that were dealt with in the afternoon workshop. Creighton Burns made the very interesting observation that there was perhaps less concern about, and fewer examples of, racist propaganda in those communities that had, as it were, made it, where there had been success stories. There is some truth in that. On the other hand, it has to be probed a little further. Perhaps the success story does no more than put balm on the hurt. Perhaps the success story just balances the insult. Again, members of ethnic communities will say it is good to read good news about an Italian or a Greek in the paper, instead of finding themselves always attacked or characterised as having committed some criminal wrong.

However, I am not so sure that the hurt is at its greatest amongst those who have recently arrived. That seemed

to me to be the picture presented by some of the speakers today. It might very well be put that the people who have come here recently, economically under enormous exigencies, spend so much of their time trying to cope with the problems of employment, with economic insecurity and all that entails, that matters of personal dignity are really very often of less immediate concern to them. They become much more obvious when that person has made a measure of progress in the community and when that person is educating his children. At that time, the hurt becomes much more obvious. It seems to me, therefore, that it is not really quite enough to say that, as you move up the ladder of success you can cope with these matters better.

think, in an odd sort of a way, the indignity is at its greatest when there has been 20 years spent in a community. Earlier, many of these things are missed, sometimes because people just do not speak good enough English to understand what is going on anyway.

A distrust of any legal method of resolving these problems was put very forcefully and a prima facie presumption was pleaded that you ought not to depart from free speech, unless a cogent and compelling case was made for so doing.

The second form of option was what I might call a group action or class action. It was also put forcefully that there are already remedies for individual abuse. There are remedies for individual insult by way of the ordinary laws of the land, but a man could say that the whole of the RSL were a pack of cowards, but he could not say to an individual person, "you are a coward", even though he was a member of the RSL. That seemed to be an odd situation that could arise, and highlighted the need and illustrated well what has been said about the need for some form of group action. However, there is a great deal of care required in relation to group actions. If you make the assumption that there is a particular ethnic group that can speak out, that is an assumption, it seems to me, which is liable to be very dangerous. It is an assumption which sometimes has got an insulting suggestion about it. There is

one thing that I think most insulting and that is the man who goes around and says how Greeks or Italians are going to vote in a particular election, or even worse, the man who says he is going to deliver the Italian vote. That sort of person cannot be trusted to deliver his own vote I would think. These people totally insult the community they are talking about and it is very dangerous to go around and say that there is a group that can speak with one voice. It is surprising how much diversity there is within the ethnic groups themselves, and that is a very healthy sign as that is how we see ourselves as Australians. We should not assume that even if there be 140 ethnic groups, that there are 140 monolithic groups that can, as it were, be registered or gazetted. There are real problems about that and it is something that has to be further teased through and discussed.

As far as civil proceedings are concerned, I am also troubled about that for a different reason. If you are going to have recourse to the courts of the land, then that, speaking as a lawyer, is something that I find very desirable. The common law has a great capacity for growth and a great capacity for flexibility. I am extremely optimistic about the capacity of our English common law to provide for our diverse society and there are some signs of this capacity already. The justice of the common law can pick up quite a number of the matters that have concerned us. Group actions brought before juries are, however, problematic: they would have to be brought before juries in some States because there is a right for the defendant to compel a jury trial even if the plaintiff does not want it. I have to ask myself what would happen if a community brought a group action for libel and the jury, for one reason or another, threw it out. The effect that that would have could be very damaging in the long term. The effect it might have in putting in jeopardy the whole respect for our system of justice in the eyes of that community is a considerable one. So again, one has to tread carefully in this area.

Leaving group matters, the third option that was canvassed today was what might be called declaratory legislation coupled with other procedures largely of a conciliatory nature. Gareth Evans put a very good point when he said: "Well, supposing we have a bench mark, just as you might be able to see the Racial Discrimination Act as having supplied a bench mark for people in the community so that they can use it defensively to justify good conduct amongst their peers who favour discrimination, is there not an argument for doing likewise in this case?" There was also a view, put very cogently, that conciliation seems wholly inappropriate if you are dealing with the third category of organised racist propaganda, and that different responses are necessary for such propaganda. The question is whether legislation should go further than being of a declaratory nature and perhaps even provide machinery for conciliation, and whether there should be the certificate system which, of course, opens up the whole question of going to the law.

We must bite the bullet at the point where we say that there will be an offence, where we get to the point of conciliation having failed so that the matter may then go to court. At that point, we cross the threshold and have to decide that we are justified in providing for recourse to the courts in the legislation, notwithstanding the limitation and restraints it will place on free speech. When we reach that point, we have to address ourselves to the kind of cases that are going to be dealt with in this way and consider the cases that have not been undertaken by existing law thus far. This takes me back to what Al Grassby pointed out, namely that the success rate of the conciliation system has been relatively high. If you take the 5,000 complaints received, of which only 10 have not resulted in some reasonably satisfactory solution, leaving aside those where there was no jurisdiction, this is a very high success rate for the conciliation process. Perhaps a graduated process of dealing with these problems is indicated.

Other procedures were mentioned. I had in mind, for example, the Ombudsman system. The Ombudsman does not have any power to prosecute. He does have a power to investigate and to report to Parliament. What is contemplated is that the report has sufficient weight and sufficient publicity that the unfortunate public servant who is the subject of an adverse report would mend his ways. It may well be that, if community attitudes could advance sufficiently, an Ombudsman system could be used by a complainant of discrimination as a first step when seeking redress. Such a process would, of course, require fairly strong declaratory legislation. The point is that those who want to go beyond that process would have to be able to take it further. What they may ask for is an offence which is designed to pick up incitement to racial hatred of an aggravated kind, or of a kind that leads to a breach of the peace.

The final option was that of creating an offence and that again came back to the question as to whether we are concerned with individuals or groups. If you are concerned with the third category of racist propaganda in an organised fashion, then you may well say that we could live with racial abuse, about which we will do everything in our power to prevent with lesser options, but that there comes a point where we will not have people disseminating racist material in an organised fashion. If it comes to that point where you must create an offence, then the critical question that was discussed was that of possible defences. Ken Rivett put very well the need for allowing a defence, whether it be fair comment in the public interest or something similar, that enables people to address themselves to matters of policy and that did not shut such comment out. Having been, along with Ken some 25 years ago, one of those early pioneers against the White Australia Policy, I would agree with him that those persons that assembled many years ago to criticise and campaign against the White Australia Policy would not have wished to see any form of shutting down of the dialogue. It was that very dialogue that we engaged in,

despite a fair amount of indirect censure and unpopularity, that enabled us to make the changes that I think, by and large, the community as a whole has warmly accepted today.

I return to this question of the harm to the community. There is the point, made feelingly, that a day in court for the defence is a day in court of massive re-publication, as it were, of the libel of the propaganda. The difficulty is that such re-publication really does not depend upon the defences allowed. A man who is charged with an offence is entitled, even if he pleads guilty, to come forward and give the circumstances under which he committed the offence, simply in mitigation of the penalty. That right cannot be shut away. The right does not depend solely upon defences. It is fundamental that, if you want to use the courts of the land, the traditional rights that go with appearance in the courts should not be cut down.

Finally, on the question of the future, it seems to me that, just as this conference has been so thoughtfully brought together by the Commission for the purpose of informing itself on the issues surrounding racial propaganda, the Commission also plainly requires to engage in an ongoing process of investigation. Most of us here would wish to see the hard data on these complaints analysed, especially to identify which of the three categories they fell into and where the worst evils were, so that the most serious problem areas could be concentrated on when any options for change were being pursued. On the other hand, whilst this process must be careful, deliberate and full, it cannot be too leisurely. We live in difficult times: if some incidents occur that cause a rush of hasty legislation, we would all be worse off than if we proceed in a way in which we have carefully analysed the options and come to some balanced result. There is a middle course to be pursued. On that note, I would like to congratulate the Commission on having brought this conference into being and wish the Commission well in its further deliberations.





