PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

1 May 2001

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FIFTY-FOURTH PARLIAMENT — FIRST SESSION

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Leigh, Mr Geoffrey Graeme	Mordialloc	LP	Wynne, Mr Richard William	Richmond	ALP

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

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TUESDAY, 1 MAY 2001

Tuesday, 1 May 2001

The SPEAKER (Hon. Alex Andrianopoulos) took the chair at 2.04 p.m. and read the prayer.

DISTINGUISHED VISITOR

The SPEAKER — Order! It gives me great pleasure to welcome to the gallery His Worship the Mayor of the City of Greater Bendigo, Cr Barry Ackerman, who is here to promote that city in advance of the historic sitting of the Legislative Assembly in Bendigo on 16 August 2001.

ABSENCE OF MINISTER

The SPEAKER — Order! I advise the house that I have been notified that the Minister for Education will be absent from question time this week. The Minister for Post Compulsory Education, Training and Employment will answer questions for the minister.

QUESTIONS WITHOUT NOTICE

Australian Venom Research Unit

Dr NAPTHINE (Leader of the Opposition) — Given Victoria's long-established and world-recognised leading role in medical research, I ask the Premier why the Bracks Labor government has scrapped the $100 000 a year state funding grant for the Australian Venom Research Unit when at the same time it can find $500 000 for its own government-funded business tax advertising campaign.

Mr BRACKS (Premier) — The government is very proud of its record in biotechnology, encouraging the commercialisation, marketing and development of the state's research capacity.

In the middle of this year the Treasurer and I will be attending a biotechnology conference in San Diego. It is the biggest such conference in the world, where I will be delivering a biotechnology plan. Some 100 Victorians will also be attending.

The government will be discussing the matter of the $100 000 funding with the commonwealth. It is a commonwealth responsibility, and the Victorian government expects — —

Honourable members interjecting.

Mr BRACKS — It is established as a commonwealth responsibility. The state government will have further discussions with the commonwealth government about future funding.

National Livestock Reporting Service

Mr STEGGALL (Swan Hill) — Having turned his back on the barley industry through deregulation, will the Minister for Agriculture inform the house why he is now withdrawing funding from the National Livestock Reporting Service?

Mr HAMILTON (Minister for Agriculture) — I thank the honourable member for his question, although I am not sure of its relevance. If the honourable member had been keeping up to date with his shadow portfolio, he would have known that last year an agreement was made between the government and the industry for the National Livestock Reporting Service, including all the stakeholders in that organisation, to be taken over and funded by the industry, as it has been funded in every other state in Australia.

The service has been funded over many years through a government subsidy. The government has had discussions with the industry over the past two years, and I would have thought the honourable member for Swan Hill and the previous minister for agriculture would have been aware that responsibility for the service is now in the hands of the stakeholders.

The government will continue discussions with industry through Victorian Farmers Federation representatives to ensure the service is funded by the private sector — by those who have a direct interest as well as by those who use the service. That is not news: it has been public information for at least 12 months.

Better Business Taxes package

Mrs MADDIGAN (Essendon) — I ask the Premier to inform the house of the reaction of the business community to the government's business tax package.

Mr BRACKS (Premier) — I am very proud of the fact that in the government's early release of the tax package before the budget Victoria has seen its largest business tax reduction for decades. Victoria now has lower taxes, fewer taxes and simpler taxes. In fact, the government lifted the provision for tax cuts in the forward estimates from $400 million over three fiscal years to $774 million over four fiscal years. That is a significant increase in tax cuts over the next four years, which shows that this government has a clear plan for reducing business taxes in Victoria.

To summarise, the government has reduced the payroll tax rate to 5.35 per cent, the second-lowest rate of

payroll tax in the country, and has also increased the threshold so fewer small business operators will pay payroll tax in the future. Secondly, it has reduced land tax by increasing the threshold to $125 000. The government was left with a legacy from the previous government of a threshold that had been reduced from $200 000 to $85 000. It has lifted that threshold to $125 000. That will exempt thousands of small operators and self-funded retirees in Victoria.

All the measures are important, but I believe the most important is the elimination of three taxes altogether. Victoria is the only state in Australia that has taken the bold step of saying that when you take out a mortgage, whether you are a small business taking out a mortgage to finance your business or a householder taking out a mortgage, you will no longer pay stamp duty. So, on lower taxes, fewer taxes and simpler taxes the government has passed every test and has been applauded for it.

I refer briefly to the response from the business community. Firstly, the Victorian Employers Chamber of Commerce and Industry had several comments to make, perhaps the most telling being that Labor's package represented more business tax reform than was achieved during the seven years of the Kennett government.

I turn to more quotes from other business organisations. The Australian Industry Group states:

> The benefits will be felt at every level of the state economy.

I know that some members of the house are members of the Australian Society of Certified Practising Accountants, which states:

> Today's announcement demonstrates both the value and benefit of the government's consultative approach to state taxes that is not only effective but also has the support of the community.

The Australian Retailers Association states:

> This will help almost all retailers irrespective of their size and is the right message to be sending to business.

The Housing Industry Association states:

> The Bracks government should be applauded for this package and for having the strength of character to release the Harvey report for public comments in the first instance.

The government has been pleased to work with the business community to achieve the business tax cuts, which are the biggest in decades. I am appalled by the responses of the opposition parties — and two have been forthcoming. In response to the business tax package the shadow Treasurer said she wanted to bring payroll tax down to 5 per cent. On any calculation that means an extra $352 million, to be funded by cuts to expenditure and outlays, lifting debt or some other combination. If that were not enough, on the weekend the Leader of the National Party said he wished to reduce payroll tax in regional Victoria by 2 per cent. I understand from Treasury estimates that the cost would be $1 billion. If the opposition parties ever get back into office together, $1.3 billion will be taken off the bottom line. That means more debt and more slashing of expenditure. Heaven help Victoria if the opposition parties ever get back together again.

HIH Insurance: liquidation

Ms ASHER (Brighton) — I refer the Premier to the decision by the New South Wales Labor Government in March to waive stamp duty on the reinsurance of premiums as a result of the HIH collapse. Why has the Bracks government not done the same thing for people affected by the HIH collapse?

Mr BRACKS (Premier) — I thank the shadow Treasurer for her question, because it is about an important issue for all states in the commonwealth of Australia. No-one in this place or in Victoria could be anything other than concerned about the collapse of HIH and the impact that has had on general insurance, on workers compensation insurance and on builders who have taken out insurance under the HIH scheme. The Victorian government has acted quickly to resolve these matters for builders and other insurers in Victoria.

The Building Control Commission is contacting every builder in the state. There are some 1500 builders yet to be contacted, and they will be contacted in the near future in order to provide them with assistance and support on reinsurance matters. An arrangement has been made with the Housing Industry Association (HIA), which did not have HIH as the major insurer for its members, to enable builders to seek reinsurance through the association with a cover note turnaround of 72 hours. I congratulate the HIA for working with the government on that issue.

I also congratulate the HIA and the Master Builders Association of Victoria for working with the government on industry solutions. The matter of stamp duty, which was raised by the shadow Treasurer, is not a claim from the industry sector, which is working with the government on reinsurance and on whether a levy should be involved. Currently that is not on the agenda, but it is under discussion. I am confident that Victoria's exposure to HIH is well contained. However, a residual issue remains concerning the prudential supervision of both HIH and other insurance schemes. Under the

legislation, that wider matter is fairly and squarely a commonwealth responsibility.

The New South Wales Premier, with the support of the premiers of the other states, has called on the Prime Minister to place the prudential supervision of HIH and other insurance schemes on the agenda at the next COAG meeting of premiers and territory leaders. As yet, no reply has been received. Separately, the Minister for Finance has twice written to the commonwealth seeking discussions among finance ministers in the other states.

Mr Cooper interjected.

The SPEAKER — Order! The honourable member for Mornington!

Mr BRACKS — The Minister for Finance is seeking proper discussions among the relevant ministers on the issue of prudential supervision. On the micro issue the government is dealing with the industry sectors, and on the macro issue of prudential — —

Mr McArthur interjected.

The SPEAKER — Order! The honourable member for Monbulk shall cease interjecting forthwith.

Mr BRACKS — The macro issue of prudential supervision is a fundamental responsibility of the commonwealth, and this government is awaiting its reply.

Better Business Taxes package

Mr HOLDING (Springvale) — Will the Treasurer inform the house of the impact of the government's business tax reform package on Victorian jobs growth.

Mr BRUMBY (Treasurer) — I thank the honourable member for Springvale for his question. I am delighted to remind the house of the great news on Victoria jobs growth over the past 12 months, during which 64 000 new jobs have been created. More than one in two, or 55 per cent, of all new jobs generated nationally have been generated in Victoria.

As if that news were not good enough, today I am able to advise the house of further good news concerning the government's Better Business Taxes package. I am pleased to announce that an independent study conducted by the Centre of Policy Studies at Monash University has confirmed that the government's Better Business Taxes package will have significant benefits for Victoria in terms of gross state product (GSP), employment and consumption. The centre states:

> The long-run gain in employment in Victoria is about 0.39 per cent — that is, 10 000 jobs.
>
> Most of these jobs come from other states … the tax cuts in Victoria have elevated national employment … Thus, of the 10 000 extra jobs in Victoria, 8300 of them come from interstate.

It continues:

> Reductions in business costs in Victoria cause a nationwide increase in investment and capital stocks. Together the increases in capital stocks and national employment cause an increase in GDP and a consequent increase in private consumption.

There you have it: sensational performance in Victoria in jobs growth over the past 12 months. However, we have a slowing national and international economy. The Bracks government's Better Business Taxes package is designed to provide new opportunities and new encouragement for business to invest in our state and create new jobs.

Seven hundred and seventy-four million dollars over four years! As analysed by the Centre of Policy Studies, Monash University — an independent study — this package will generate 10 000 new jobs for our state with most of them drawn from interstate because of the increased competitiveness of the Victorian system.

Opposition members interjecting.

Mr BRUMBY — I would have thought that was great news for our state, but instead all the people opposite, who could never reform the tax system in Victoria, did in seven years was to abolish one tax worth $1 million. In seven years the Kennett government — the big reforming government — got rid of one tax worth $1 million! We have provided $774 million over four years, lowered payroll tax, increased the threshold on land tax, required less paperwork for business, and done away with three taxes. The net result? Ten thousand new jobs for Victorians! That is a great result.

Pest plants and animals

Mr INGRAM (Gippsland East) — My question is to the Minister for Environment and Conservation. There is growing concern that funds for environmental management are being increasingly absorbed in studies, investigations and reports while practical steps are not being taken to address urgent problems. Will the minister inform the house of what steps she will take to assist landowners to control pest plants and animals, especially on neighbouring Crown land and roadsides, and within what time frame she will take them?

Ms GARBUTT (Minister for Environment and Conservation) — I welcome the question and the opportunity it provides to set the record straight.

The Bracks government firmly believes that community consultation must underpin its decision making. The previous government took to ramming decisions down the throats of everybody across Victoria. We will not do that. We understand that people want to be heard and listened to.

I know that the honourable member for Gippsland East appreciates the consultation about a proposed relocation of the bat colony to Mallacoota which, for various reasons including community concerns, did not go ahead. We understand the role of community consultation. The opposition does not — it still has not learnt that lesson from the last election.

The Bracks government has runs on the board when it comes to conservation and environment issues, including areas that the honourable member would be interested in. One of the first things it did was abolish the unfair and unjust catchment management authorities tax. He also is very aware and supportive of the decision about the Snowy River flows and the Gippsland Lakes rescue package.

The emphasis that the government has put on pest management has been on enforcement. I announced a $350 000 boost for enforcement officers. It causes great distress and anger to farmers when they see that the owners of neighbouring properties do not undertake the necessary control works, and that is why we have put in an extra $350 000 for additional enforcement officers.

We have also plugged the big hole left by the previous government with wild dog control enforcement.

An honourable member interjected.

Ms GARBUTT — Yes, the doggers, that is right. That was a cut by the previous government and we have filled that.

We are about to release a draft integrated pest management strategy, and I am sure the honourable member for Gippsland East will be interested in responding to that.

The opposition is carping constantly — —

Mr Perton interjected.

Ms GARBUTT — Carping and whingeing — that is right — about the number of reviews being undertaken.

Mr Perton interjected.

The SPEAKER — Order! The honourable member for Doncaster shall cease interjecting.

Ms GARBUTT — When I look at some of the reviews I have to say that many of them have been double counted, do not exist or are distorted, and some of them — such as the marine parks and coastal inquiry, which was started by the previous government — make no sense at all.

Prisons: funding

Mr WELLS (Wantirna) — My question is for the Minister for Corrections. Given the government's clear confusion between the minister and the Premier over who will pay for Victoria's proposed two new prisons, exactly how will they be funded and how much will they cost?

Mr HAERMEYER (Minister for Corrections) — I commence by asking the Government Whip to remove that question from the government's question list. I congratulate the honourable member for Wantirna on his third question in the almost 12 months he has been shadow Minister for Corrections.

Last week the government revealed it was building two additional prisons, one of 600-bed capacity and another of 300-bed capacity. It should be remembered that for all the rhetoric from the other side about being tough on law and order, in seven years in office the former government built 107 prison beds, despite an increase in the prison population of over 1000. The former government is responsible for the shortage; the current government is fixing it.

Last week the government indicated that it is building two new, state-of-the-art prisons. It has provided preliminary costings based on the possibility that they will be built — —

Opposition members interjecting.

The SPEAKER — Order! Will the house come to order!

Mr HAERMEYER — The estimated cost of those prisons is in the vicinity of $150 million to $160 million. The government has also said it will explore the possibility of private financing — —

Opposition members interjecting.

The SPEAKER — Order! Will the house come to order!

Mr HAERMEYER — In both opposition and in government the ALP has said it is concerned about who runs the prisons, not about how they are built. The decision has been taken on the basis of the sort of funding the government is looking at — that it will finance those prisons through public works processes. However, that is purely a financial decision on the best way to build the prisons. It is not a decision made on the sort of ideology that led the people on the other side to embark on a disastrous private prison experiment.

Corrections: home detention

Mr CARLI (Coburg) — Will the Minister for Corrections inform the house of details of the government's plans for a strictly regulated home detention program for low-risk, non-violent offenders to reduce pressure on the prison system and improve the chances of rehabilitation?

Mr HAERMEYER (Minister for Corrections) — As part of its program announced prior to the last election the government said it would introduce a trial for a home detention program. It is part of a package of broader corrections reforms, which includes more prison beds. It is all about attempting to deal with overcrowding in the prison system and a systematic program of trying to reduce offending and reoffending.

Victoria is the last mainland state that does not have some form of home detention program. The experience in other states is that of people who go on home detention only in the vicinity of 5 per cent reoffend. That is low compared to the numbers that reoffend after being released from the prison system.

On numerous occasions I have said that we are sending into the prison system a lot of people who might have convictions for various forms of property crime, such as shoplifting, and who come out with a PhD in armed robbery.

That is the sort of thing the government wants to turn around. Home detention is about tackling low-risk offenders while ensuring they are not taken out of their jobs so they are able to provide restitution to their victims and their families are not disrupted by having the breadwinners taken away, unless that is absolutely necessary. Of course the most serious offenders should go to jail, which is why the government is providing the prison beds the other side did not provide.

Home detention will be enforced by rigorous supervision and electronic monitoring. Home detention is much tighter than community-based orders, which were continued under the previous government. The previous government even had sex offenders doing community projects at schools! That will not happen with home detention under the Bracks government.

The home detention concept has received broad-based support from such people as businessman Lindsay Fox and former Chief Magistrate John 'Darcy' Dugan. An editorial in today's *Herald Sun*, which is not renowned for being touchy-feely on crime, states:

> The Bracks government's legislation to force criminals to compensate victims for their wages has merit.

The article concludes:

> … Mr Haermeyer's move is well worth a try.

Government Members — Hear, hear!

Mr HAERMEYER — A former Minister for Corrections in a previous Liberal government, Mr Walter Jona, said that if electronic surveillance technology had been available to him he would have introduced home detention. In expressing his concerns the other day the Leader of the Opposition was somewhat out on his own when he said that people who should be in jail would remain in the community. If ever there were a case of that occurring it was when police numbers were cut by 800 under the previous government and when people were not put in jail because there was no room for them. This government is fixing that problem, and it is ensuring that a program is tailored to the individual requirements of those people who do not properly fit into the community corrections or prison system.

Unfortunately, under the previous government people were voting with their feet. At the last election every crim in Victoria walked into the polling booth with a Liberal Party how-to-vote card!

The SPEAKER — Order! I ask the minister to conclude his answer.

Mr HAERMEYER — The Liberal Party seems to have a rather schizophrenic view on this. The honourable member for Wantirna, the opposition spokesman on police and emergency services and corrections, wrote a letter in response to a person late last year. In that letter he says:

> I have approached my colleague and shadow Attorney-General, Mr Robert Dean, in relation to this issue, to which he has responded as follows:
>
> > Home detention is an important issue. Something must be done because at the moment, as a consequence of the drug scourge, our prisons do not have the capacity to cope with the number of people being sentenced.

Dr Dean — On a point of order, Mr Speaker, if the minister is going to quote from a letter of mine, it is incumbent on him to produce the full letter, which I have and can give to him. The letter is clear and contrary to — —

The SPEAKER — Order! I ask the honourable member to come to his point of order.

Dr Dean — The letter is clear and contrary to those matters. As a consequence, Mr Speaker, you should require that the full letter to which he is referring be tabled.

The SPEAKER — Order! I do not uphold the point of order. I have asked the Minister for Corrections to conclude his answer. I do so again, given that he has been speaking for 6 minutes.

Mr HAERMEYER — I am happy to table the full letter of the honourable member for Wantirna. I am getting to the end of it, which states:

> If the government brings forward this legislation I will seriously take your views into account.
>
> Thank you for writing.

There seems to be a somewhat schizophrenic view on the other side; they are divided and they are policy free.

This is an important initiative. It is a trial, and a trial only, and I ask opposition members to give it a go rather than taking a rather cheap, opportunistic view, which leaves them out in the cold, even with members of their own party.

Advertising: standards

Ms BURKE (Prahran) — I refer the Minister for Women's Affairs to the Bracks Labor government's new tourism advertisements, which show a scantily clad woman in a suggestive pose. Given that the minister deemed the Windsor Smith shoe advertisement, which also showed a woman in a suggestive pose, as a slap in the face to women, will she investigate her own government's advertisements and consider their removal?

Ms GARBUTT (Minister for Women's Affairs) — I am pleased to provide further details to the shadow minister and the house and to indicate the context of these advertisements. The main thrust of the proposals and the advertisement across Victoria and across Australia has been on cinema and television. The advertisement to which the honourable member for Prahran is referring is not one of those. Other advertisements — five of them — will appear in magazines, and this is one which is specifically targeted for overseas women's fashion magazines. By comparison, the Windsor Smith advertisements last year were on billboards around this city, where people driving along the roads, walking along the public footpaths and so on could not avoid seeing them, so it is an entirely different context. This is a very limited and targeted range of advertisements and has absolutely nothing to do with the outdoor advertisements we saw last year.

HIH Insurance: liquidation

Mr LONEY (Geelong North) — I refer the Minister for Finance to the Premier's earlier response on HIH and ask: will the minister inform the house of what action the state government can take in respect of the collapse of the national company, HIH Insurance?

Ms KOSKY (Minister for Finance) — The collapse of HIH has left many individuals and companies across Australia in difficult circumstances, without future insurance and in some cases without retrospective cover. The liability or the potential loss in Victoria is currently estimated at around $60 million, although we are still trying to get the detail of that. But that relates to Workcover, general public claims and also hospitals. Local government also appears to have a limited exposure, so Victoria is probably better positioned than some of the other states that have a much greater exposure.

The state government does not regulate the insurance industry. The Australian Prudential Regulation Authority regulates the insurance industry and has a role in ensuring that insurance companies are operating according to proper standards and that situations such as the collapse of HIH should be responded to at a national level with federal leadership.

As the Premier has said, I have written to the relevant federal minister, Joe Hockey, on two occasions and have received no reply at this stage. I have asked the minister to convene a national meeting so there can be a national response to this issue, given that it occurs around Australia.

Opposition members interjecting.

Ms KOSKY — I turn to the opposition, which has been jumping around all over the place on building warranty insurance and builders. As honourable members know, it was the opposition when in government that privatised the Housing Guarantee Fund. Now it is seeking that the government re-enter the area and provide global cover — the honourable member for Box Hill has asked the government to

provide global insurance. The opposition wants global insurance but does not want taxpayers to foot the bill. Although I am not sure how that would operate, I am sure that in the fullness of time the honourable member will provide adequate arrangements for it.

The government has investigated the waiving of stamp duty, because some builders will be paying two lots of stamp duty — for the insurance with HIH and for new insurance. I have been informed that there are three reasons why waiving stamp duty will be very difficult — and if the opposition had investigated this properly it would be aware of those difficulties.

Firstly, most annual policies are up for renewal at the end of May this year, so the holders of those policies are not losing money in stamp duty. Secondly, many builders take out insurance only on individual projects, so that stamp duty applies only to an individual project and is not an issue for those builders. Thirdly, the government needs detailed information from the liquidator — it is not yet available and may not be available for a few years — as to each builder's type and level of insurance under HIH and their type of new insurance, to ensure that the stamp duty to be waived equals the stamp duty that has already been paid.

While it seems a simple solution, applying it is difficult. A small amount of money is involved because of when the policies expire. If there were an easy way to do it, the government would be the first to put it in place. However, there is no easy way.

Rather than adopt the latest opposition proposal, which has not really helped, the government has taken a number of actions that will assist the building industry. It has been working closely through the Building Control Commission with housing associations, builders and insurers to put in place replacement insurance programs so that building work can continue as usual in Victoria.

I am advised that builders can get cover for individual projects in two working days and full annual reinsurance with a four-week to six-week turnaround. I understand that insurance cover is with Royal and Sun Alliance, which has a relationship with the Housing Industry Association (HIA), so builders should not have their work held up for extended periods because of insurance problems. I have been informed that last week close to 800 full policies were issued to builders in Victoria. Royal and Sun Alliance has trained and put on additional staff to push through this insurance cover. The Building Control Commission has also put in place a call centre so that it can contact all HIH insured builders and advise them of their replacement insurance options.

The SPEAKER — Order! The minister is not being succinct. I ask her to conclude her answer.

Ms KOSKY — The liquidator has been most helpful, unlike the Master Builders Association, which has been out there whipping up concern within the building industry that people will not be able to get insurance and delaying the provision of information; and, despite having made money from commissions for the active selling of insurance with HIH, it is now wanting the taxpayer to foot the bill. The government will not be doing that, but it will be working with the insurance industry and the housing industry to ensure that building continues as usual and that there is run-off cover for those people who already have their buildings in place.

The SPEAKER — Order! The time set down for questions without notice has expired and a minimum number of questions have been dealt with.

RULINGS BY THE CHAIR

The SPEAKER — Order! I wish to make a statement in relation to points of order taken on 22 March. The issue arose out of a 90-second statement made by the honourable member for Springvale. During his statement the Deputy Leader of the Opposition raised a point of order concerning the making of references to committee proceedings. A question then arose as to whether it was appropriate for a point of order to be taken during a statement. In addition, at the conclusion of the overall period of statements on that day, the honourable member for Bentleigh submitted that a breach of standing order 108 had occurred. I will deal with the two issues separately.

Points of order: timing

I have previously ruled that honourable members should be afforded the opportunity to make statements, which last a maximum of only 90 seconds, without interruption. To that end I have already stated that it is appropriate for points of order to be dealt with at the end of the overall period allowed for members statements. That accords with the spirit of the statement procedure.

There will, however, be occasions when an issue needs immediate resolution. Provided any attempted point of order is not made spuriously or as a disruptive tactic and that the issue genuinely needs resolution straightaway, it is in order for a statement to be

interrupted and an immediate ruling from the Chair sought.

I have examined the record and it is apparent that the Deputy Leader of the Opposition was given an opportunity to raise a point of order during the statement. The Chair at the time dealt with the point of order raised and ruled that there was no point of order. It is further quite clear to me that the only issue raised at that time related to the reference that had been made to committee proceedings.

Standing order 108

The first reference to standing order 108 was made by the honourable member for Bentleigh. No such issue had been raised by any honourable member while the honourable member for Springvale was making his statement. There was, therefore, no question of the Chair refusing to consider a point of order that the standing order had been deliberately flouted. Indeed, on an examination of the record it is clear to me that had the Deputy Leader of the Opposition framed her point of order in those terms instead of making the point of order she did, it would have been quite correct for the Chair to have ruled that there was no point of order.

The honourable member for Springvale continued his contribution after the point of order was dealt with. Having considered the balance of his remarks, I can advise the house that I do not consider that they contained imputations of improper motives or personal reflections in breach of standing order 108.

Reference has been made to the ruling made on 24 November 1999, at which time the Chair had drawn a member's attention to the standing order and given a warning that she would no longer hear him if he made any personal reflections on members. That situation was entirely different from the one under present consideration. The honourable member in question had been making very specific allegations, including that there was a criminal issue worthy of police investigation. However, I remind all honourable members that they should at all times be careful in their remarks, and reiterate that the Chair will be vigilant in warning members where appropriate.

I believe that with this statement I have fully addressed all the issues that have been raised and do not consider any further action to be required.

PERSONAL EXPLANATION

Mr HONEYWOOD (Warrandyte) — I wish to make a personal explanation regarding question time on Thursday, 5 April, the last day on which the house met. In answer to a question from me relating to a contract to build new portable classrooms interstate for Victorian schools, the Minister for Education claimed that information I had provided to the house was wrong on three grounds. This is not the case. I refer to each in turn.

Firstly, in her response the minister stated:

> … the company he is referring to is a company called Austco, not Ausco. You should get it right, Phil.

The company I referred to is in fact Ausco, and the company is known only as Ausco.

Honourable members interjecting.

The SPEAKER — Order! I ask the house to come to order. I remind honourable members that personal explanations should be heard in silence.

Mr HONEYWOOD — Secondly, the minister in her response to my question went on to state:

> … the honourable member for Warrandyte got the location wrong. The Austco company is situated in South Australia, not South Africa, as he alleged in question time yesterday.

However, in my question as set out in *Hansard* of 4 April I stated:

> Can the Minister for Education explain how a South African-owned company, Ausco … was awarded a multimillion dollar contract by the Victorian education department to construct portable classrooms at its manufacturing plant in South Australia?

The SPEAKER — Order! I have warned the house on a number of occasions. The honourable member for South Barwon is being disorderly.

Mr HONEYWOOD — The Minister for Education claimed to the house that I gave incorrect information a third time, when she stated:

> Austco is not situated in Queensland, as the shadow minister alleged in the adjournment debate last night.

However, as shown in *Hansard*, during the adjournment debate on 4 April I said:

> I ask the Minister for Education to investigate the circumstances surrounding the awarding of a contact … to the Queensland-based Ausco company through its manufacturing plant in Elizabeth, South Australia.

Mr Speaker, this now corrects the minister's misrepresentation.

PETITION

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

Roads: Wyndham

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

The humble petition of the undersigned citizens of the state of Victoria, and in particular residents of the Wyndham municipality, sheweth that there are a number of dangerously neglected roads in Wyndham that are in urgent need of repair and upgrade.

Your petitioners therefore pray that:

1 the state government and Vicroads classify the following roads as declared main roads consistent with the role and function performed by these roads as principal regional links between Werribee and the surrounding urban fringe areas of metropolitan Melbourne: Dohertys Road, Sayers Road, Palmers Road, Old Geelong Road and Aviation Road

2 the state government allocate funds within the next two financial years to upgrade or commence the upgrade of the following roads: Dohertys Road, Sayers Road, Palmers Road, Leakes Road, Edgars Road, Bulban Road (realignment), Old Geelong Road and Aviation Road.

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

By Ms GILLETT (Werribee) (2486 signatures)

Laid on table.

Ordered that petition presented by honourable member for Werribee be considered next day on motion of Ms GILLETT (Werribee).

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 4

Ms GILLETT (Werribee) presented *Alert Digest* No. 4 of 2001 on:

Auction Sales (Repeal) Bill
Benefit Associations (Repeal) Bill
Electricity Industry Acts (Further Amendment) Bill
Food (Amendment) Bill
Health Records Bill
Health Services (Health Purchasing Victoria) Bill
Road Safety (Alcohol and Drugs Enforcement Measures) Bill
Tobacco (Further Amendment) Bill

together with appendices.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Ballarat University — Report for the year 2000 (two papers)

Bendigo Regional Institute of TAFE — Report for the year 2000

Box Hill Institute of TAFE — Report for the year 2000

Caritas Christi Hospice Limited — Report for the year 1999–2000

Central Gippsland Institute of TAFE — Report for the year 2000

Chisholm Institute of TAFE — Report for the year 2000 (two papers)

Council of Adult Education — Report for the year 2000

Deakin University — Report for the year 2000

Driver Education Centre of Australia Limited — Report for the year 2000

East Gippsland Institute of TAFE — Report for the year 2000 (two papers)

Gordon Institute of TAFE — Report for the year 2000

Goulburn Ovens Institute of TAFE — Report for the year 2000

Holmesglen Institute of TAFE — Report for the year 2000

Interpretation of Legislation Act 1984:

Notice under s 32(3)(a)(iii) in relation to Statutory Rule No. 127

Judicial Remuneration Tribunal Act 1995:

Report on Judicial Salary and Allowances, 17 January 2001, together with a statement containing recommendations for adjustments in judicial salary

Report on the Victorian Civil and Administrative Tribunal's Salary and Allowances, 17 January 2001, together with a statement containing recommendations for adjustments in judicial salary and allowances

Kangan Batman Institute of TAFE — Report for the year 2000

La Trobe University — Report for the year 2000

Melbourne University — Report for the year 2000

Mercy Hospitals for Women — Report for the year 1999–2000

Northern Melbourne Institute of TAFE — Report for the year 2000

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

Ballarat Planning Scheme — No. C40

Bass Coast Planning Scheme — No. C2 Part 1

Boroondara Planning Scheme — No. C13

Campaspe Planning Scheme — No. C13

Casey Planning Scheme — Nos C20, C28, C29

Darebin Planning Scheme — No. C17

Glen Eira Planning Scheme — No. C10

Horsham Planning Scheme — No. C5

Hume Planning Scheme — Nos C6, C20

Knox Planning Scheme — Nos C6, C15

La Trobe Planning Scheme — No. C8

Maroondah Planning Scheme — No. C13

Melbourne Planning Scheme — No. C43

Moonee Valley Planning Scheme — No. C23

Moreland Planning Scheme — No. C3

Mornington Peninsula Planning Scheme — No. C26 Part 1

Pyrenees Planning Scheme — No. C3

Stonnington Planning Scheme — No. C7

Whittlesea Planning Scheme — No. C17

Yarra Ranges Planning Scheme — Nos C6, C7

RMIT — Report for the year 2000

St Vincent's Hospital (Melbourne) Limited — Report for the year 1999–2000

South West Institute of TAFE — Report for the year 2000 (two papers)

Statutory Rules under the following Acts:

Gaming Machine Control Act 1991 — SR No. 31

Local Government Act 1989 — SR No. 30

Road Safety Act 1986 — SR No. 29

Subdivision Act 1988 — SR No. 28

Subordinate Legislation Act 1994 — Minister's exemption certificate in relation to Statutory Rule No. 29

Sunraysia Institute of TAFE — Report for the year 2000

Swinburne University — Report for the year 2000

Victoria University of Technology — Report for the year 2000

William Angliss Institute of TAFE — Report for the year 2000

Wodonga Institute of TAFE — Report for the year 2000

The following proclamations fixing operative dates were laid upon the table by the Clerk pursuant to an order of the house dated 3 November 1999:

Gambling Legislation (Miscellaneous Amendments) Act 2000 — Sections 5, 9, 10(3), 11, 12, 22(2), 37, 41, 42 and 53 on 26 April 2001 (*Gazette G17*, 26 April 2001)

Gaming No. 2 (Community Benefit) Act 2000 — Remaining provisions of Part 5 and Part 6 on 26 April 2001 (*Gazette G17*, 26 April 2001)

Gas Industry Acts (Amendment) Act 2000 — Sections 3, 6, 7, 8, 9, 10, 12, 13, 16, 17, 18, 19, 20, 21, 22, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35, 36, 37 and Part 4 on 12 April 2001 (*Gazette G15*, 12 April 2001)

ROYAL ASSENT

Message read advising royal assent on 10 April to:

Health Records Bill
Land (Further Revocation of Reserves) Bill
Parliamentary Precincts Bill

APPROPRIATION MESSAGES

Messages read recommending appropriations for:

Food (Amendment) Bill
Health Services (Health Purchasing Victoria) Bill
Tobacco (Further Amendment) Bill

BUSINESS OF THE HOUSE

Program

Mr BATCHELOR (Minister for Transport) — I move:

That, pursuant to sessional order 6(3), the orders of the day, government business, relating to the following bills be considered and completed by 4.00 p.m. on Thursday, 3 May 2001:

Road Safety (Alcohol and Drugs Enforcement Measures) Bill

Food (Amendment) Bill

Health Services (Health Purchasing Victoria) Bill

Statute Law Amendment (Relationships) Bill

State Owned Enterprises (Amendment) Bill

The motion sets out the business program for this week and the legislative tasks the Assembly will be asked to have completed by 4.00 p.m. on Thursday. There are five bills, a couple of which will be of great interest, firstly to the broader community outside and, secondly, to honourable members debating them.

The Statute Law Amendment (Relationships) Bill has been on the notice paper for some time. The government delayed bringing it forward until the

Attorney-General had the opportunity of participating in the debate.

The bill not only satisfies election commitments made by the government but has widespread community support. The Attorney-General has taken a particular interest in it, and while recovering from his illness was keen to make sure that he was in Parliament during the debate. It is the first bill to be dealt with today and judging from the interest generated in the media, in the broader community and among the individuals who make up this chamber, it is expected that the bill will take some considerable time to progress through the house.

By way of information to Mr Speaker and honourable members, the government has set aside the whole of today for debate on the bill, and the house will sit past 10 o'clock tonight if that is required. That may well happen because not only is the second-reading debate of widespread community interest and of interest to honourable members, it is anticipated — to the extent one can anticipate it — there will be an extensive committee stage, with the possibility of government, Liberal and Independent amendments. In that context time will need to be set aside for a committee stage. The government has acknowledged that, not only by setting today aside but also by putting forward a government business program containing only five bills rather than a more extensive one so that these matters can be properly and thoroughly debated and time can be provided for a proper committee stage.

It is interesting that committee stage debates are a new feature of Parliament. They were a rare thing under the stewardship of the previous government, which in its seven years hardly ever allowed for a committee stage. The Bracks government believes that the committee stage is an integral part of the legislative program, and its stewardship of Parliament stands in stark contrast to what happened in the past. The government will allow a committee stage to take place so that amendments can be proposed and properly dealt with.

The other bill that I expect will attract a great deal of participation from the chamber is the Road Safety (Alcohol and Drugs Enforcement Measures) Bill. Road safety is an important community issue. In the past it has received bipartisan support, and I anticipate that that support will continue today. It is a bill on which many members would like to contribute. I expect comprehensive contributions from both sides of the chamber. I commend the motion to the house.

Mr McARTHUR (Monbulk) — I support the motion of the Leader of the House. The Liberal Party appreciates the discussions that have taken place over the past few days in arriving at a reasonable program for the week. The Leader of the House has pointed out that one bill has generated enormous community interest over recent months, and it is a sensible decision to have a comparatively generous notice paper this week. Extensive committee stage debate will take place on the Statute Law Amendment (Relationships) Bill. Given that many amendments will be proposed by at least two of the parties and one of the Independents, they will require the close attention of all honourable members, and presumably there will be some interesting divisions later today or tomorrow.

I take up the point that the Leader of the House made with regard to committee stages. It is not in the government's hands as to whether or not there is a committee stage on legislation. If any member of the house wants a bill to go into the committee stage at the end of the second-reading debate, then all that member has to do is refuse leave and the house will automatically go into committee. In the seven years between 1992 and 1999 either the Labor Party was not awake to that fact or chose not to take the opportunity to discuss bills in committee.

The house also goes into committee automatically when the government proposes amendments on a bill. The reason the house is having so many more committee stages these days is that the Bracks government has shown itself incapable of introducing a clean bill. That is particularly the case with bills introduced by the Attorney-General, because the minister is notorious for seeking headlines and for failing to pay attention to detail. As a result, the Attorney-General is regularly required to delay debate on bills, to sit on them for a few weeks or months and finally to proceed with a raft of amendments, which are sometimes moved in this house and sometimes in the other. That often causes him great embarrassment, because it forces him into a significant number of backflips and backdowns. If the government wishes to avoid that sort of embarrassment in the future it should pay more attention to the consultative process in developing its legislation and pay more attention to detail in drafting it. It would then not find itself in this position.

The debate today will be interesting. The bill has created a good deal of discussion in the community and I am sure many honourable members would like to contribute to the debate. The house will be well served by the time allocated to the bill today.

Overall the business program is sensible. I welcome the fact that for the first time in 18 months the government

has given notice of a significant amount of legislation so that the house will have a decent number of bills to deal with over the rest of the sitting, and presumably some legislation will lie over during the winter recess and come on for debate in the spring sitting.

Mr MAUGHAN (Rodney) — Although the National Party supports the business program put forward by the Leader of the House, I question whether sufficient time has been provided for debate on the complicated Statute Law Amendment (Relationships) Bill. Many amendments have been proposed, some by the government. While I appreciate that the sitting will be extended to consider the amendments, given that part of the charter with the Independents was to have family-friendly hours, I am not sure that extending the sitting to accommodate these issues is necessarily the way to go. Nonetheless, it is not a heavy legislative program. The Road Safety (Alcohol and Drugs Enforcement Measures) Bill is an important bill on which many honourable members will wish to speak. I believe sufficient time has been provided during the week to accommodate the five bills that the government wishes to get through by Thursday afternoon. The National Party does not oppose the business program put forward by the government.

Motion agreed to.

MEMBERS STATEMENTS

Public transport: Eltham

Mr PHILLIPS (Eltham) — The matter I raise is in the form of a petition presented to my office by a group of constituents with regard to their concerns about the government's attitude to building freeways. The document is signed by 43 constituents who live in and around Eltham. They state that they would like the government to place a greater priority on bicycle paths and public transport rather than the building of more roads.

They are concerned about social and economic hardships and the depletion of oil. In their document they state that 80 per cent of Australia's Bass Strait oil reserves are already gone. I advised them I was happy to raise their concerns in the house as their petition did not meet the necessary criteria for a petition, but it was important that their point, which is for a greater emphasis to be placed on public transport and bicycle facilities, be brought before the Parliament.

I am sure all honourable members will support that idea. Only a small section of the community uses public transport, and it is not practical in the outlying areas.

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

School buses: review

Mr MAXFIELD (Narracan) — I have received a petition to be tabled in the house on school bussing policy in country areas. The petition calls for a fair bussing policy for all. The bussing of students to schools in country areas is important to them and their families. The current policy creates problems where some students may catch a government bus but others living next door are unable to do so. Different rules apply between government and non-government schools.

Transport issues are central to the life of many people in Gippsland. I welcome the government's review of bussing policy. The education of our children is important and must never be taken for granted. Many families struggle to get their children to school while hoping that a seat on a bus becomes available. The bussing policy must be taken into account when the needs of the community are considered.

Many parents have contacted me on the issue of their children travelling to school and I have had to intervene to assist families on many occasions. The former Kennett government's funding cutbacks have increased problems in school bussing policy and placed additional pressure on the system by making it harder for students to obtain the education they need and deserve.

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

Parliament House: tunnel

Mr KILGOUR (Shepparton) — If the government's plan to dig a tunnel from Parliament House to a leased office block across the road in Spring Street goes ahead, Parliament will be placed in a ridiculous situation. Who in their right minds would spend up to $10 million to build a tunnel to a building they do not own?

Who in their right minds would move the Hansard reporters — the very people who need to be close to the chambers — across the road and force them to go on a route-march to access the chambers just because ministers want to use the Hansard offices? The situation is ridiculous.

The owners of the building across the road in Spring Street will be laughing all the way to the bank knowing that their building is probably now worth twice what

they paid for it because the Parliament is connected to the building. What a waste of taxpayers' money. Rather than carrying out this ridiculous proposal of wasting money on a tunnel under Spring Street, the government should finish Parliament House or at least build one of the two wings that have already been planned to provide extra accommodation on site.

Workcover: compensation payment

Mr ROWE (Cranbourne) — I again refer the house to the plight of Mrs McGeochin and her children who live in my electorate. Unfortunately, her husband was killed in a motor vehicle accident last October while a passenger in a rubbish truck that hit a tree. I previously raised her plight in the adjournment debate on 22 March, but other than funeral expenses some six months after the death of her husband she has not received a cent from the Victorian Workcover Authority.

The authority and its insurer, QBE Insurance (Australia) Ltd, have decided to take a stance that until a lump sum payment for a deceased worker is decided by the County Court they will not pay weekly pension benefits, and that decision is unacceptable. The purpose of Workcover is to compensate workers and their families who suffer serious illness, injury or death, and compensate them immediately. Mrs McGeochin has now used all her savings. She was in danger of losing her house and car and was barely able to feed her children.

I call on the Minister for Workcover to instruct the Workcover authority to reverse its policy and immediately pay not only Mrs McGeochin but the dependants of other deceased workers their rightful pension within a matter of weeks.

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

Attorney-General: illness

Mr HULLS (Attorney-General) — As many honourable members know, I recently spent some 13 days in the Royal Melbourne Hospital with a so-called mystery illness. Despite being tested for everything under the sun, it was not until I was finally discharged from hospital that a severe case of glandular fever was finally diagnosed.

I take this opportunity of thanking all those in the infectious diseases ward of the Royal Melbourne Hospital who so caringly and professionally looked after me during my stay. Dr Mike Richards and his team are highly skilled, courteous and a credit to their profession.

I also wish to thank those many well-wishers who wrote to me, sent me flowers and fruit and specific advice during my stay. To my surprise I even received cards, notes and telephone calls from members of the Liberal and National parties as well as former state premiers! Whether that is a reflection of the underlying camaraderie of politics or simply that the opposition believes the government performs worse when I am around, I am not sure. In any event, I am back and raring to go!

I conclude by saying that the chamber is a fairly confined space and I hope that everyone here has already had glandular fever.

Roads: funding

Mr SAVAGE (Mildura) — I raise an issue relating to the recent news that the Victoria Grants Commission has a new formula for allocating road funds. This is very good news for regional Victoria. For far too long the size of the task faced by shire councils in maintaining their roads has not been adequately recognised. That is about to change.

For example, the Mildura Rural City Council received $1.75 million this financial year to assist in the maintenance of roads. Under the new formula it will receive $2 million in the next financial year, increasing to $2.5 million over the next three years. The reason for the substantial increase is that under its new formula the commission calculates the cost of maintaining roads. In Mildura's case that is $8.3 million a year.

The Yarriambiack Shire Council's allocation would increase from $939 000 to $985 000 in the next financial year, and $1 082 000 in three years' time. The council needs $3 608 000 a year to maintain its roads.

The Victoria Grants Commission is responsible for allocating the money given by the federal government — $84 million — to assist in the maintenance of Victorian roads. The commission currently allocates 30 per cent of its funds to Melbourne, Geelong, Ballarat and Bendigo councils, 7 per cent to urban councils and the remaining 63 per cent to the rest of Victoria.

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

Rail: Pirron Yallock station

Mr MULDER (Polwarth) — I congratulate the Labor government on its first major infrastructure project in the Polwarth electorate. I believe that one should give credit where credit is due.

This great Labor initiative follows on from projects initiated and carried out by the previous Kennett government, such as the $13.5 million redevelopment of the Colac hospital, a $4 million natural gas connection, a $4 million performing arts centre, a $7 million redevelopment of the Lorne Community Hospital, $8 million to relocate and renew Lorne's emergency services and $10 million to upgrade the rail line between Colac and Warrnambool.

Labor has really been listening, but to whom? May I present Labor's first major infrastructure development in the Polwarth electorate — the Pirron Yallock railway station! If the Labor government would like to take its members on a tour of the station they had better be ready to jump because a train has not stopped there for several decades. The only way to get there is to turn left at Pirron Yallock, drive 2 kilometres down the road, turn left on to a dirt road, dodge the cows, potholes and manure, and look behind an old cypress plantation — to find the Labor Party's first major infrastructure project in the Polwarth electorate.

I thought I had better find out where the project was initiated, so I went to the shire. No-one knew anything about the project. I knocked on a number of doors in the area and no-one knew about — —

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

Audrey Armstrong

Mr LANGDON (Ivanhoe) — I pay tribute to the life of Mrs Audrey Armstrong, who unfortunately passed away on Easter Saturday, 14 April.

Audrey was well known to the West Heidelberg community, in particular the Olympic Village and the Bellfield areas. Audrey was a life member of the former West Heidelberg community centre — now called the Banyule Community Health Centre — where she was an active member who did much work in the community within the Olympic Village area. She will be sadly missed.

Audrey was also the president of the Bellfield Combined Pensioners Association, which is a fair bit away from the Olympic Village but which is still actively involved in the West Heidelberg area. Audrey and the former treasurer, the late Kath Gilbert, used to run the committee very well and efficiently — and almost with an iron will. Audrey will also be sadly missed there. Audrey was also the treasurer of and was actively involved with the Bellfield community centre.

The whole community turned out to mark her passing and to pay tribute to her. I would like to add to that by having Audrey's life and duty to the West Heidelberg area recorded in the house. I pass on my commiserations to her family.

Police: Geelong

Mr PATERSON (South Barwon) — The Labor government's hypocrisy on police numbers has been exposed once again with the revelation that Geelong police do not have the numbers to enforce the new speed limit in residential streets of 50 kilometres an hour.

The admission comes from the head of Geelong's police traffic management unit. He said that the unit does not have enough cars and has abandoned enforcing the new restrictions, despite complaints from residents about motorists speeding in their streets. Worse than that, the police minister did not even bother to return the call when a Geelong newspaper tried to get a response from him. That is how much this government cares about law and order and police numbers. It does not bother to explain its hypocrisy to the public. It is quite clear that the government did not understand the implications of its policies. It is about time it took community safety seriously.

This comes on top of revelations that not one extra police officer has been added to police strength in the Geelong region. The Labor government has not delivered on its election policies and should be condemned.

Centenary of Federation: celebrations

Mr HARDMAN (Seymour) — I rise to congratulate the citizens of the Seymour district on the fantastic centenary of Federation celebrations held on Saturday, 28 April. A committee of volunteers led by Ken Hall successfully applied for a $15 000 state government grant to put on centenary of Federation events. It was a fantastic initiative for holding of events outside the Melbourne central business district.

The Freedom of Entry ceremony featured the Puckapunyal Combat Arms Training Centre in a spectacular event that included a parade of military bands and vehicles and ground drills, and included the opening of the Light-horse Memorial Park, which

involved a parade of many community clubs, groups and schools through the streets of Seymour. Many people turned out to witness the ceremony. A great concert was also held, featuring students from Seymour technical school, St Mary's College and Seymour Christian College, as well as from the Puckapunyal, Seymour, Seymour East, Tallarook and Avenel primary schools.

Events also included a ceremonial flag raising, a Country Fire Authority torch light parade, a fireworks display and an under-18 disco, sponsored by Freeza.

I congratulate the citizens of Seymour and all the people involved for their display of community spirit. It was a wonderful experience. It was great to see those sorts of events happening in regional and rural Victoria.

STATUTE LAW AMENDMENT (RELATIONSHIPS) BILL

Second reading

Debate resumed from 23 November 2000; motion of Mr HULLS (Attorney-General).

Government amendments circulated by Mr HULLS (Attorney-General) pursuant to sessional orders.

Independent amendments circulated by Ms DAVIES (Gippsland West) pursuant to sessional orders.

Dr DEAN (Berwick) — I wish to advise that I too have amendments. One of the amendments I received today was missing some words, but that has now been corrected. With the leave of the Leader of the House I will circulate those amendments. The first set of amendments has already been given to the government, but the second set is still on its way.

Mr Ryan interjected.

Dr DEAN — I have given the first set to the honourable member for Richmond, and as soon as they arrive they will be circulated.

Opposition amendment circulated by Dr DEAN (Berwick) pursuant to sessional orders.

Dr DEAN — It has certainly been an interesting few months since the bill was first presented to the house. As set out in the second-reading speech, the Attorney-General says:

> This bill takes a significant step in implementing the government's pre-election commitment to reduce discrimination against people in same-sex relationships.

It was therefore the government's position, which the opposition accepted, that the bill was to be about avoiding discrimination. The word 'discrimination' is interesting. So far as the Liberal Party is concerned, it means that people in similar relationships ought not be discriminated against. It means that if couples in existing relationships are currently enjoying benefits — in this case, married couples and de facto couples — other couples who reach the same level of relationship are entitled to those benefits and should not be discriminated against.

The opposition had hoped that this was the intent of the bill — that it was an anti-discrimination bill, not a bill that went further or did other things. Unfortunately, when the opposition had a close look at the bill it was clear that it did a lot more than simply eradicate discrimination. That is, it did a lot more than set the existing level of relationship and say that other couples in relationships that reached that level ought to have the same rights. The opposition found that the bill changed the entire definition of 'relationship'. Effectively marriage and de facto relationships were moved down a level to make it easier for couples in all relationships of a nature specified by the government to meet those requirements and get benefits.

That was when the Liberal Party said that although one of its tenets is to oppose discrimination, another is to protect the family at all costs and to promote long-term relationships, because families and long-term relationships are the best chance children have to prosper.

No-one would say that marriage or de facto relationships are panaceas for children. We can all quote examples where marriages have only lasted a short time and ended in divorce or de facto relationships have split up. We would also all agree that in those circumstances the people who suffer the most are the children.

However, the Liberal Party believes long-term relationships and families are the best way of ensuring the security of children. Families and people that stay together in long-term binding relationships, de facto or otherwise, provide security for children. The most important way of ensuring that the next generation is happy, secure and able to get advice and assistance is through parental relationships. Young people should have a stable element to rely on when they inquire about where they should be heading in the future. That was the problem for the Liberal Party. The Liberal Party believes the entire nature of relationships will be changed by this bill.

The bill does not simply set out the necessary factors of a marriage or a de facto relationship and provide that gay couples who meet that quality or level should be entitled to certain benefits. Rather, it changes the whole ball game. If one were cynical one would say that that was done on purpose and that it was deceitful. A person not so cynical may say it was done without the government realising it, so it was negligence. Whether it was negligence or intended, it is something the Liberal Party could not accept.

A government member interjected.

Dr DEAN — Let us ask whether it was deliberate or incompetent. What do we have on the incompetence side of things? Let us be absolutely clear: the gay and lesbian community did not draft this bill. The government drafted the bill through its parliamentary draftsman and advisers. I will go along the incompetence route firstly. As a consequence of the incompetence in the drafting of this bill, the gay and lesbian movement has suffered an enormous amount of friction, trouble and chaos that it would not have suffered if the legislation had been correct in the first instance.

A government member interjected.

Dr DEAN — I will cut to the chase. The government says the drafting of the bill was not incompetent and that it did not make any errors. Why is it that the government is moving 22 amendments and an Independent member is moving another 47?

Government members interjecting.

Dr DEAN — I should not let them do this to me, should I? The bill is about to undergo something like 87 amendments. It is said they are merely repetitive, but we have not been told that the content of the bill is just a definition. That definition has now undergone five major changes. One piece of legislation of about two paragraphs has been completely rewritten by five major changes, and every act that includes that definition, which is spurious, will now have to be amended. Yes, Mr Attorney-General, there are something like 80 amendments and every act with that definition now has to be amended.

I am sure the house will go into committee and work through the amendments. I want to congratulate the government, because when it realised it had done the wrong thing and had introduced legislation that was incorrect, it did the right thing by introducing the amendments. The honourable member for Gippsland West has also recognised the difficulties and has decided to try to correct the act. Was it incompetence or was it deliberate? Perhaps we should not worry too much about that.

Let us track back through this government's legislation. For two years we have watched this government introduce totally incompetent legislation through the Attorney-General's department. Let there be no doubt about that. I will start with the Constitution (Amendment) Bill, which was another example of incompetence. Its drafting was so incompetent that the bill had to be withdrawn and another bill introduced. That is not quite right. The government forgot to withdraw the first one before introducing the second, so at one stage two contradictory bills were sitting in the house at the same time. After the second bill was introduced the government realised it had removed all the triggers for dissolution and that the only way it could break a deadlock within the four-year period was to call for a motion of no confidence in itself. Of course, that bill also bit the dust.

A whole series of other bills followed, such as one to amend the Freedom of Information Act. I remember that one! When that bill was introduced I met with the Attorney-General and said — —

Mr Lenders — On a point of order, Mr Acting Speaker, it is interesting to listen to the honourable member for Berwick referring to previous bills introduced at different times, but we are now debating the relationships bill. Rather than merely touching on a series of bills, he is going on and on and is about to list them. I urge you, Mr Acting Speaker, to ask him to confine his remarks to the bill before the house.

The ACTING SPEAKER (Mr Loney) — Order! At this stage I believe the honourable member for Berwick is simply illustrating the point he wishes to make in debate while making passing reference to other matters that have previously been before this house. I am sure he will return to the bill shortly. There is no point of order.

Dr DEAN — I certainly will, Sir. At the moment I am trying to determine whether or not we can say that the mistakes in this bill were made because of inappropriate and incompetent drafting.

I was simply pointing, first of all, to the Constitution Act and to the Freedom of Information Act, on which I went to the Attorney-General to say, 'Here's an amendment'. He turned around and moved my amendment to correct his act. When the whistleblowers legislation was introduced it was shot up into the stratosphere once the government realised it had major problems. That was forgotten for months and months

until it came down again — and it is now hovering in the other house, with amendments. Then the transvestites bill was introduced, which was also shot into the atmosphere because the government did not know what to do with that, until it did a deal with the Independents and backtracked on its own legislation. We said, 'No, we like the first one. We'll vote for the first one. You've got the biggest majority of all time here' — but no, the government accepted an amendment against its own legislation because it was incompetent.

Then came the Dupas bill. The government had said, 'Oh no, we're not going to do that, that would be shocking legislation'. Then it said, 'Oh yes we are', and it came through. Then there is the Court of Appeal legislation, which is absolutely useless because the President of the Court of Appeal says there is no way he will ever use it — and on and on it goes.

Now we are debating this bill, which is a very important piece of legislation. People on both sides of the fence have heartfelt views on legislation like this, and getting it wrong is disgraceful.

The first problem is clear. Again I give the government credit, because it realised right from the start that the amendments to the Property Law Act relating to children would be inappropriate. The problem is that if a child is to be the determinant of the relationship — that is, if the period is to be less than two years because there is a child of the relationship — that is fine if you are married, because you have a biological connection to the child. So if the parents are heterosexual that is okay, because there is a biological connection to the child through both parties. You can have an adoption situation, where the parties adopt a child; or you can have an IVF situation, where a child has been delivered to the parents, even if the egg or sperm came from somebody else.

All those situations apply to heterosexual couples but they do not apply to gay couples, who cannot have children by adoption, IVF or biologically. But the government still wanted to have this child qualification in the legislation rather than the two-year period, so it decided to just say that if one of them had a child that would be enough. I do not know whether you call that incompetence, deceit or what, but no-one in their right mind would agree that a relationship should suddenly click in and become a domestic relationship, with all the benefits and burdens that attach to those relationships, if only one partner has a connection with one of the children.

You can have a situation where a couple comes together and one of the partners has a child that the other person who comes into the relationship may not even know about — for example, the child may be living somewhere else. Yet, ipso facto, straightaway the fact that there is a child, even though the other partner did not even know about it, means there is a domestic relationship. When we said that could mean only two weeks or a month, that is what the legislation said — it referred either to a period of two years or to the existence of a child.

I congratulate the government on making that change. It was necessary. Now the parties have to be the parents of the child, whether that is through the parental status act, IVF, adoption or biologically. That was an important principle to the Liberal Party, because this is all about children.

I must say that the relationships adults have are pretty much a matter for them. Adults can decide how they want to arrange their lives. However, when it comes to children we all have a responsibility. We all have to take note, and we all have to be careful that we do not agree to legislation that can in some way result in the creation of relationships where children are not the central point of concern.

The next problem occurred in relation to the new definition of 'domestic partner'. When I say 'new', it is true that it appears in the Australian Capital Territory (ACT) act, which is limited entirely to property, and in the New South Wales act in a narrow form that relates entirely to property — so it is not a new term to that extent. But if you tried to determine whether the courts had made a decision about what is and what is not a domestic relationship, you would have a pretty hard time of it. Nobody has been able to find a body of law that would help in that regard. So to that extent it is a new term, and to that extent it has to be defined.

The government decided to go the ACT way and included two definitions in this bill. New South Wales rejected the broad definition and went for the narrow definition — 'genuine domestic relationships'. However, the ACT decided to have two definitions, one being the narrow definition and the other being the 'financial support' definition. The problem for the Liberal Party was the use of the term 'couple' in the narrow definition. That term has all sorts of ramifications, because the sorts of factors that are required to determine whether a couple is a de facto couple are also included if you apply the term 'couple' to a same-sex relationship.

If you look at the broad definition you will see that the term 'couple' is missing. Shaw, QC, who is probably one of the finest legal minds in this state — —

Mr Robinson interjected.

Dr DEAN — Thank you very much for the compliment, but if you were to say to me that I was half as good as Shaw I would walk on air for weeks. Shaw came top of BCL at Oxford. He was also chairman of the Bar Council, and he is a man of great merit and strength.

He pointed out a simple problem, which is also of concern to the Liberal Party. If you include the term 'couple' in the narrow definition but do not include it in the broad definition, the courts must as a matter of statutory interpretation take it to mean that you have deliberately intended not to have the term 'couple' in the broad definition. Therefore all those limiting factors that the term 'couple' brings are not part of that definition. That could include Mary and Martha or shared flat mates or the situation where two people are in some way financially dependent on each other but have no commitment to a long-term relationship. All those could be domestic relationships. That is why the government has moved to put the term 'couple' in the broad definition — and by doing so it has made the broad definition much the same as the narrow definition. Both definitions now require that you are a couple.

It could be argued that the broad definition is narrower now because it requires other things such as financial dependence, et cetera. I do not blame the government for that. I am happy it has done that because if it had not the opposition would not be in a position today to say that the government has made attempts to ensure that family and long-term relationships are not undermined.

I refer to the amendments proposed by the honourable member for Gippsland West. I cannot tell honourable members how important they are.

Mr Hulls — Nor can we.

Dr DEAN — Obviously you regard them as important because you will include them.

Mr Hulls — Absolutely.

Dr DEAN — I will not be so cynical as to say you suggested they go in, because that would be unfair on the honourable member for Gippsland West!

The ACTING SPEAKER (Mr Loney) — Order! I am sure the honourable member for Berwick would not make that reflection.

Dr DEAN — I am glad there has been unusual cooperation between the honourable member for Gippsland West and the government, because the amendments are important.

One of the reasons the amendments are a breakthrough is that at the moment there is no list of such items with respect to existing married and de facto relationships. When determining a de facto relationship the court has to use general principles in relation to a de facto relationship. Those amendments will greatly strengthen the whole notion of a relationship.

In particular I refer to the amendments, which are very important for the Liberal Party. Under amendment 9 it is proposed to insert:

> the duration of the relationship;

An essential part of the Liberal Party's position is that it does not wish to see long-term relationships undermined. Therefore, legislation that requires the court to take into account the duration of the relationship when determining whether such a relationship exists is an important step.

Secondly, the amendment proposes that the nature and extent of common residence is to be taken into account. Again, that is part of the Liberal Party's position. It is true that people, even in marriage, may not live in the same house. I know of a successful marriage where the husband is overseas, in Europe, for at least six months of the year, so that couple is not living in the same house for that time. The same applies with de facto relationships. No-one is saying that unless two people are in the same house the whole time they are not in a relationship. The fact that the extent of common residency must be taken into account is an important matter.

Whether or not a sexual relationship exists is also important because that has always been part of cohabitation. Cohabitation has that intimate, personal, sexual combination that gives rise to a bonding, long-term and loving relationship.

The proposed insertion of:

> … the degree of financial dependence or interdependence, and any arrangements for financial support, between the parties …

and:

> … the ownership, use and acquisition of property …

is also important.

The next item in the amendment is the most important of all. That brings me back to an important amendment the government proposes to its legislation — that is:

> … the degree of mutual commitment to a shared life;

If you are to share your life with someone, you start out at least with the intention of being with that person forever. You plan to share your life. That is the basis of the relationships that are entitled to benefits, and in some cases burdens. However, that is put on a pedestal in our community because it creates the stability that is so much a part of the lives of children and of people participating in those relationships. That is the cornerstone of the way we live.

I refer to the next item in the amendment:

> … the care and support of children;

That is an important factor to be taken into account, as is the last item in the amendment:

> … the reputation and public aspects of the relationship.

The Liberal Party accepts the amendments proposed by the honourable member for Gippsland West. It believes they are crucial to whether the Liberal Party would be able to proceed at all.

I refer back to another amendment the government is proposing to the bill's purpose. The purpose section basically stated that the purpose of the act was to amend various acts in relation to domestic relationships. That is pretty much along the lines of creating a new set of relationships. Now the government is adding an objects clause because it has received legal advice that it is important — both in the purpose clause, because that will be the flavour of the bill, and by adding 'couple' to the broad definition — to include the following words:

> The object of this Act is to recognise the rights and obligations of partners in domestic relationships where there is mutual commitment to an intimate personal relationship and shared life as a couple, irrespective of the gender of each party.

The Liberal Party is pleased that the government has seen fit to insert 'shared life as a couple', because without that amendment it would have had to continue to reject the bill. 'Shared life as a couple' means that two people at least start out with the intention that they will share their lives forever as a couple. That is important.

I will now make a few comments about discrimination of choice. Discrimination is a bit like the term 'separation of powers'. Many terms are used and abused because they become part of the lingo. Whenever anybody wants to try to change something to another direction or to get what they want, they pop out one of those terms. If you are a bit upset with the judge you say, 'Breach of separation of powers', and a judge who is a bit upset with the politicians says, 'Breach of separation of powers'. It is the same with discrimination.

The fact is that we discriminate all the time. We discriminate in everything we do. We discriminate when choosing what restaurants we go to, what clothes we wear, whom we will call our friends and whom we will not, and how we live our lives and how we do not. Discrimination is a big part of life.

What do we mean by opposing discrimination? We mean that where there are two situations that are the same, save for factors that ought not be the basis of distinction, one ought not to discriminate, because it is being done for an ulterior purpose. It is something outside the apparent purpose for which you are saying you discriminate. There is no doubt that the term 'discrimination' is important.

It is important to discriminate in many ways such as in deciding on the school your child will attend. You might say, 'I can send my child to the private school down the road or to the public school. Money is not an option; what will I do?'. You decide to go to the public school for reason X.

Mr Wynne interjected.

Dr DEAN — The honourable member for Richmond thinks I am talking about schools. He can relax, because other honourable members know what I am talking about!

The ACTING SPEAKER (Mr Lupton) — Order! The honourable member for Berwick will return to the bill.

Dr DEAN — We make that sort of discriminatory decision because that is where we want our children to go.

Let's not get hung up on the word 'discrimination', because there will be times when we have to discriminate for valid reasons. However, it is of the utmost importance that when making that discriminatory decision we are totally honest about why we are making it. We might say, 'I am discriminating in this situation because of X'.

Mr Wynne — That is shocking!

Dr DEAN — What is shocking about that?

Mr Nardella interjected.

Dr DEAN — What, to say you are not allowed to discriminate?

The ACTING SPEAKER (Mr Lupton) — Order! The honourable members for Richmond and Melton will be quiet and let the honourable member for Berwick get on with his contribution.

Dr DEAN — I am sorry, Mr Acting Speaker, I will try to simplify it. At the moment I am talking about the general notion of discrimination, not as it applies to this legislation or any other act.

A government member interjected.

Dr DEAN — We are all on the same wavelength; that is good.

As a consequence, we must make discriminatory decisions. What happens in a situation where, for example, a gay couple have lived together for 20 years and been totally committed to each other and one partner dies? Had they been married or in a de facto relationship, the surviving party would have the right to either buy out the other half of the house or at least undertake a property action to ensure he or she was not tossed out. However, as the law stands, if the couple were tenants in common the surviving party would be thrown out of the house.

That is discrimination, and there is no reason for it. We should not discriminate against people whose relationship is as strong, long lasting and dedicated as any other relationship in which the parties are entitled to those rights. They should not be discriminated against on the basis of their being of the same sex. That is totally inappropriate, and that is why the Liberal Party opposes discrimination. It is also why we support a bill that eradicates that form of discrimination.

Mr Acting Speaker, when I issued the first opposition amendment there was a problem with the second. That has now been fixed, and it has been delivered to the house. I ask that the further amendment be circulated, and I hope and pray that it will be as I anticipate. I am sure it will be.

The ACTING SPEAKER (Mr Lupton) — Order! Thank you for your hopes and prayers. We will pause while the amendment is distributed.

A government member interjected.

Dr DEAN — We have not had four months. We have only had the time since we saw the government amendments to determine what we would do.

A government member interjected.

Dr DEAN — At no time has the government ever given us its amendments.

Mr Wynne — On a point of order, Mr Acting Speaker, it is simply untrue that the opposition did not have the government's amendments. We have had long negotiations with the opposition — and, might I add, not with the shadow Attorney-General.

The ACTING SPEAKER (Mr Lupton) — Order! What is your point of order? You are disagreeing with what the honourable member for Berwick is saying. There is no point of order.

Dr DEAN — I should not be led astray. The opposition obtained copies of the amendments because they were given to the gay and lesbian movement. The gay and lesbian movement gave them to a member of Parliament on our side, who then gave them to me.

Mr Wynne — That is not true.

Dr DEAN — It is true. The honourable member for Richmond can say why he believes it is not true when he makes his speech. That is my understanding of the situation.

Further opposition amendment circulated by Dr DEAN (Berwick) pursuant to sessional orders.

Dr DEAN — The 22 amendments to be moved by the government and the 43 amendments to be moved by the honourable member for Gippsland West will go a long way towards ensuring that the proposed legislation does not undermine long-term relationships or the family. However, there are two matters that the opposition believes need further attention, and as a consequence it will also be moving its amendments.

The government, an Independent and now the opposition have circulated amendments, and I will outline the two amendments the opposition will move. If honourable members look at page 6 of the bill they will see a clause relating to the Administration and Probate Act. To give the government its due, it has attempted in that clause to get over a difficult problem — that is, that when one partner of a marriage dies intestate the other partner automatically gets all the property, and any other parties have to apply for a share of the property via part 4 of the act.

Part 4 states that if you think you have a special interest over and above the person nominated to receive all the intestate person's assets, you bring an application. I have done many part 4 applications. They are very expensive — and I know they are very expensive because I have been the person charging the fees. They run for a long time, they are very complicated and they cause a great deal of stress. Part 4 applications are on the same level as family court actions and should therefore be avoided.

The government has said the following about domestic relationships: 'If one of the parties in a domestic relationship dies intestate, we will operate on a two-year and a five-year rule. That is, if a domestic partnership has been going for two years or longer, the surviving domestic partner will automatically receive half of all those assets, and if the domestic relationship has been going for five years or more, the surviving domestic partner will receive all the assets'.

The opposition believes that is a valiant attempt that unfortunately does not work, because it replicates the rigidity that is already present in the legislation. It will create as many unjust situations as already exist.

Let's take the classic example of a marriage that goes for, say, 20 years. Mum and dad are tenants in common, and the children of the marriage live in the house. Dad moves out either to another heterosexual relationship or to a same-sex relationship — it does not matter which — and is in that relationship for three years and then dies.

Under the bill, the domestic partner in that situation would automatically be entitled to half the intestate partner's assets, which would mean a quarter of the house. That in turn would mean that the house would have to be sold. If mum wanted to do something about it, she would have to do so via a part 4 application. If the relationship had lasted for five years, half the house and the rest of the estate would go to the domestic partner, and mum — who would still be looking after the kids after a 20-year marriage — would have to make a part 4 application to get a slice of the action.

Mr Hulls — What about a property settlement?

Dr DEAN — If there has not been a property settlement, they would be in trouble. The Attorney-General is saying that if there has been a property settlement, that would be fine. However, not everybody who goes into these relationships enters into a property settlement. In fact, if dad leaves mum to go into another relationship, I will guarantee you that neither will sit down and enter into a property settlement.

The ACTING SPEAKER (Mr Lupton) — Order! The honourable member will speak through the Chair.

Dr DEAN — The opposition understands that the situation is rigid, but it believes the current proposal is not the solution because it will introduce more rigidity and throw up other, equally difficult situations. The opposition believes the matter ought to be referred to the Law Reform Committee to be sorted out.

Effectively there needs to be some discretion, whether it is through the registrar acting on a set of principles or whatever, so one would never need to make application under part 4 because more just determinations would be made up front. The opposition believes that is possible and wishes that provision to be removed at this stage. Unless the government agrees, the opposition will use its numbers when the bill reaches the upper house. If the government agrees it will be fantastic. The opposition wants part 4 to be referred to the Law Reform Committee in order to try to get it right. Otherwise an opportunity will be lost to hit this on the head once and for all. It is a problem that needs to be fixed.

The other important amendment introduces a further provision to the purpose clause, and refers to the golden words 'a shared life as a couple'. That is important to the decision taken by the Liberal Party today. The Liberal Party wishes to add a further provision in the purpose clause which reads as follows:

> (3) It is a further object of this act to prevent discrimination under legislation specified in the schedules by ensuring that same-sex couples who are in an equivalent relationship to de facto spouses have the same rights and obligations as de facto spouses, while at the same time recognising the importance of long-term relationships and the security of children.

That phrase should be included in the purpose clause of the bill and the government should have no difficulty with that. I have not had a chance to talk in detail to the honourable member for Gippsland West about the matter, but the opposition believes the clause provides the icing on the cake for anybody who has difficulty with the legislation because it in some way undermines families or throws up short-term relationships. The opposition believes no honourable member would disagree that the importance of long-term relationships and the security of children ought to be recognised and that not to recognise them would be a backward step.

Those are the two amendments the opposition wishes to pursue. If they are not agreed to by this house, the

opposition will ensure that they are put forward in the upper house where it is hoped they will be agreed to, and then presumably the legislation will be returned to this house.

Couples and shared life is now the centre of the legislation and all the factors that are already to a large extent taken into account by courts are put in legislation. To those people who say that the legislation could still undermine the family in some way I say that right now there is no legislative form for de facto or married couples. By placing the codification into the legislation, the honourable member for Gippsland West has strengthened the level of de facto relationships. That is an important move.

I conclude with the following comments: I have no doubt that whenever legislation of a social type is introduced and a government tries to legislate to affect our culture, the relationships people have and the perceptions they have about those relationships, there will be great angst, conflict and difficulty. The previous government did it with the Equal Opportunity Act and this government is doing it with this legislation. To those people who have enormous difficulty with the bill, I say the Liberal Party has taken a stand to ensure that big changes will be made to the previously proposed legislation. Those changes promote permanency, longevity of relationship, cohabitation and a shared life. By taking that position and forcing it to happen the angst has been taken out of some of the debate. To those people who passionately believed in the bill as it was and wanted it to go through untouched — they have every right to hold that view as strongly as anybody who passionately believes no such bill should ever be passed — I say the Liberal Party has attempted to bridge the gap and in so doing has taken a lot of the fury, power, angst and aggression out of the legislation.

If the legislation had remained as it was the gay community would have been a sitting target because those people who did not want it would have used example after example as set out by Shaw, QC, in relation to the broad definition to knock down the legislation and therefore the gay community. By tightening the definitions and ensuring that families and long-term relationships are protected, the Liberal Party has gone as far as it possibly can to help those people who do not want to see any of the legislation passed to realise that at least their own relationships are protected. At the same time it provides for the gay and lesbian community to have legislation which achieves its objects without creating the anguish and aggression from those who are dead against it and always will be. Their swords are to some extent blunted.

I would love to stand up — if the situation were reversed some honourable members on the other side would do the same — and crow like a cock on the wall at sunrise to say, 'I told you so', but I am not going to do that.

What the government has done is the right thing, to the extent that it ensures that the legislation does not undermine the family or long-term relationships.

I disagreed passionately with the legislation as it was drafted, and I will have a shot at the Attorney-General over the competence thing. It was incompetence — his incompetence — that led to the fight. Had he got it right the first time the gay and lesbian community would not have needed to have the fight in the first place.

Mr Nardella — Stop, stop!

Dr DEAN — 'Stop, stop', he says. All right, I will stop. With the work that has been done by the Liberal Party on the bill to effectively change its direction and alter it in the way in which it needed to be altered, I now believe that if the government will accept the amendments of the opposition the legislation is acceptable.

Mr RYAN (Leader of the National Party) — In relation to the Statute Law Amendment (Relationships) Bill I share one basic point of view with the honourable member for Berwick. I readily accept that the discussions on the bill and matters akin to it probably evoke some of the most difficult matters to be considered by honourable members, yet the issues are fundamental to people in the community.

There is no easy way around the process. In the months that have passed since the legislation was introduced there has been an enormous amount of consideration of the matters contained in the bill. Nevertheless, at the end of the day it is no good trying to be all things to everybody, and that is not a position that I have ever taken. It is not appropriate, and I do not intend to do so in debate on this bill. I well understand that the legislation touches upon issues critical to the way people live their lives.

From the National Party's perspective the issue is not about telling people how to live their lives or approving or not approving of the way people live their lives. So far as we are concerned, that is not the issue. On the contrary, we believe people are perfectly entitled to live their lives as they choose as long as they remain within the law. That is entirely a matter for them. Far be it from me or anyone else to direct them or otherwise advise them on that matter.

In the end, however, the National Party, having carefully considered the legislation and everything that flows from it, has reached the conclusion that it intends to oppose the bill. We are also opposed to the amendments proposed by the government, the Liberal Party and the honourable member for Gippsland West. The National Party has no amendments that need to be the subject of consideration. Rather, the party intends to call for a division on the bill and to vote against it.

The basic position of the National Party is that it regards the notion of marriage as an absolutely fundamental aspect of life on which communities are built. We believe the importance of marriage is so great that other options contemplated in the legislation cannot match it. That starting point — that marriage is a cornerstone of our society — means that other options referred to in the bill are not appropriate and, to us at least, not acceptable. That position is in opposition to the position advanced by the government in the second-reading speech and referred to by the honourable member for Berwick in his contribution.

Honourable members who do not agree with the basic proposition adopted by the National Party as a starting point are, in reality, adopting the stance proposed by the government when it introduced the bill — that is, the notion that it is an issue of rights. The second-reading speech contains various references to the 1998 Equal Opportunity Commission and its report on same-sex relationships and the law. It also contains references to various other commentaries on discrimination against people in what are now termed de facto relationships or same-sex relationships, declaring that such people should, as a matter of right, be able to enjoy similar entitlements across a raft of areas to those enjoyed by people in marriage relationships. It is at that point that the National Party parts company with the bill.

The National Party believes the bill is not the proper way to address the issue. Our starting point for consideration of the bill is an absolute: that the institution of marriage is fundamental to the structure of society and needs, in this day and age particularly, to be supported as far as is conceivably possible. Granted, even marriage is not perfect, because relationship structures never are. There will always be difficulties. However, with regard to raising children in a stable environment, the National Party believes the best opportunity to make their way in the world is given to children who are the products of marriages.

Of all the material before the house — there is a sea of paper around me that is relevant to the legislation and the proposed amendments — the one pivotal act of Parliament that has not been the subject of any direct discussion in the course of the debate is the 1961 commonwealth Marriage Act, which underpins the notion of marriage and the way marriage is dealt with in Australia today.

I will deal with two elements in my contribution. Firstly, I will turn to the broad history of the notion of marriage. Secondly, I will deal with the additional and associated question of marriage in Australia — the pragmatic aspects of it and the different processes that must be gone through to enter into or exit from a marriage contract.

The institution of marriage has a long history. Most ancient societies determined that they needed a secure environment for the perpetuation of their number and a system of rules to handle the granting of property rights, and the institution of marriage dealt with both of those needs. For example, ancient Hebrew law required a man to become the husband of a deceased brother's widow. The many forms of marriage include polygamy, polygyny, polyandry, endogamy, exogamy and common-law marriage. I am sure that information is of great interest to the Attorney-General.

Over time different cultures have had different histories regarding the treatment of women. In ancient Egypt women had equal rights in theory but that was not always the case in practice. Medieval women faced dual responsibilities to religion and marriage. As still happens even today, traditional cultures included arranged marriages, with the people involved not necessarily having much of a say in the decision. In past centuries most couples did not marry because they were what is regarded today as being in love; marriages were arranged for other purposes of the nature I have outlined.

The institution of marriage, and everything associated with it, has developed through the ages and has undergone vast changes in the way it is defined in different communities. Without going through a wealth of material that I could read from, I shall conclude this part of my contribution by referring to a quote by author Laura Reynolds, which deals with what is termed 'medieval marriage'. She states:

> Marriage is a bond between two people. Whether the two people enter into this institution because they are in love or because of other reasons, such as in medieval times, it remains just as much of a challenge. Both individuals carry an enormous amount of responsibility in a marriage. However, for all the bad times, there are good times that can also be recalled. These joyous times are what successful relationships thrive off of. Although marriages in the Middle Ages may have many contrasts with the marriages of today, the concept is basically the same.

At present the Australian position on marriage is reflected in the commonwealth Marriage Act. Its many provisions are important in the context of the debate because they set out a process that in practical terms requires people to go to a lot of trouble and not inconsiderable expense to either get married or exit a marriage. Before a marriage ceremony can be solemnised the bride and groom must decide where the marriage will occur and whether the ceremony will be a religious or civil event. Both forms of ceremony are recognised as legal marriages by Australian law.

Under the commonwealth Marriage Act a notice of intended marriage must be completed and lodged with the person who is going to perform the ceremony — the proposed celebrant — at least one month but no more than six months before the preferred date of marriage. The bride and groom must show the proposed celebrant documentary proof that they are 18 years old or older, which must be a birth certificate or an extract of entry if they were born in Australia. If the bride or groom were not born in Australia the celebrant can accept a valid passport or a citizenship certificate.

If either party has been married before, that person must show the celebrant proof that they are free to remarry. The proof required is usually a decree nisi of dissolution of marriage that has become absolute, or a death certificate. Birth documents, and if applicable divorce or death certificates, should be shown when the notice of intended marriage is lodged. The restrictions are tight to the extent that uncertified photocopies of documents will not be accepted and documents in a foreign language must be accompanied by a certified translation into English.

The marriageable age in Australia is 18 years for both males and females. Marriage of a person who has attained the age of 16 years, but is under 18 years, is possible only if the person they are marrying is 18 years or older. In this situation parental consent and an order by a judge or magistrate are required for the minor. Two persons under 18 years of age cannot marry each other.

The commonwealth Marriage Act contains 120 sections. Mr Acting Speaker and honourable members will be pleased to know that I will not read them all. The legislation is divided into different parts and refers to the marriageable age and the marriages of minors. It refers to the application of prohibited degrees of consanguinity and affinity, the solemnisation of marriages, and the authorisation of marriages and who is able to so authorise. It deals with general matters of administration, marriages by marriage officers and chaplains, and includes general provisions. A number of other provisions are not pertinent to the debate today.

A protracted area in part VII deals with offences, commencing at section 94. Section 94(1) states:

> A person who is married shall not go through a form or ceremony of marriage with any person.

A penalty of five years imprisonment applies. Section 95(1) states:

> A person shall not go through a form or ceremony of marriage with a person who is not of marriageable age.

The penalty is imprisonment for five months. Section 96(1) states:

> A person shall not wilfully make a false statement in a declaration under this act.

The penalty provision is of a substantial amount of money. Section 97 states:

> A person shall not falsely represent himself to be a person whose consent to the marriage of another person is required by this Act.

Again, a pecuniary penalty applies.

Section 98 deals with penalties that apply to the presentation of a forged document. Section 99(1) states:

> An authorised celebrant shall not solemnise a marriage under Division 2 of Part IV. of this Act in contravention of …

It then refers to other sections of the act. Section 100 states:

> A person shall not solemnise a marriage, or purport to solemnise a marriage, if he has reason to believe that there is a legal impediment to the marriage.

Again, a financial penalty is imposed. Section 101 deals with the solemnising of a marriage by an unauthorised person and what flows in the event of that occurring, and again a financial penalty is imposed.

Similarly, provisions in the same vein are contained in sections 102, 103 and going through to 106.

My purpose in going through that protracted process is to point out that when people marry they enter into an agreement that commits them to a relationship intended to be of a longstanding nature. It is a contract between them that they cannot easily enter into. Many statutory aspects stand around and underpin the notion of marriage and how people marry.

If a marriage does not succeed — and I readily accept that all too often marriages fail — and the parties wish to remove themselves from such a marriage, they must

go through processes set out under commonwealth legislation to obtain a divorce.

The ACTING SPEAKER (Mr Lupton) — Order! The house will pause until a minister comes to the table.

Mr RYAN — I know my remarks were upsetting the Attorney-General but I did not think they were upsetting him that much!

The marriage relationship is unique. Having reached that state of mind the National Party cannot accept the other options referred to in the bill and will vote against it. In discussions about drugs and education issues it is often said that many of the difficulties would not arise, or that they would be less, if children came from a stable family environment and were the product of a home where there is a happy marriage. That issue often arises and I have heard that comment made in many forums over many years. The National Party believes the legislation is flawed, which is why it will vote against the bill and the proposed amendments.

The bill is divided into seven schedules and contains amendments to 44 acts of Parliament. Excluded from those acts are proposals relating to in-vitro fertilisation (IVF) treatment and adoption. From the briefing received from departmental officers, my understanding is that a further tranche of legislation is to come before the house. I do not know how many more acts will be amended.

Mr Hulls — About 30.

Mr RYAN — The Attorney-General has advised me across the table that there are about 30. I assume those 30 do not contain amendments concerning IVF or adoption, and the Attorney-General nods his head in agreement. The second-reading speech states that both those matters will be referred to the Law Reform Commission and further legislation will be brought before the house if it is thought appropriate.

The National Party argues that if there is a logical consistency in the government's proposals concerning the amendments contained in those 44 acts of Parliament, why should the two areas to be referred to the Law Reform Commission not also be the subject of this legislation?

Mr Hulls — Would you support it if they were?

Mr RYAN — No, I would not.

The ACTING SPEAKER (Mr Lupton) — Order! If the Leader of the National Party and the Attorney-General wish to have a conversation they should go outside. If they wish to conduct a debate in the chamber they should direct their remarks through the Chair.

Mr RYAN — Far be it from either of us to conduct the debate not in accordance with the rules, Mr Acting Speaker. By the same token, subject to the way they are conducted these exchanges are sometimes a useful exercise because they enable aspects of the legislation to be talked out in a way that gives a better outcome in the sense of the debate. However, I would never flout your ruling, Mr Acting Speaker.

If the government is to be consistent in the way it has framed this legislation and in all the matters contained in the second-reading speech, and if it is right in what it says — that the bill is an exercise in the extension of rights and is all to do with curing discrimination, either real or perceived — the National Party believes it is irrefutable logic that amendments reflecting on both IVF and adoption should be included in the bill.

The government has not done that, I suspect, because it believes there would be no acceptance in the public domain. Whatever else might be accepted, the government believes that if the current legislation or that which is coming were to include the issues of IVF and adoption, the public would loudly express its concern.

Mr Hulls interjected.

Mr RYAN — The Attorney-General says an Equal Opportunity Commission report indicates that more work needs to be done. I have already said that the logic of the government's position on extensions of rights is such that it would include those two issues in the bill. It seems irrefutable logic!

In considering its position the National Party took as a basic criterion its belief that marriage is the cornerstone of the community. National Party members do not believe this legislation adds anything to that general notion. Rather, their concern is that the nature of this legislation — let alone the nature of the matters that are contained in the impending bill, whenever that may be dealt with — detracts from the institution of marriage. The National Party does not support the bill.

Mr WYNNE (Richmond) — This is a proud day for the Labor Party, whose members are also members of a government that is committed to the creation of a socially just and cohesive community.

The Statute Law Amendment (Relationships) Bill has had an interesting and chequered history. It has run the

gauntlet of the opposition parties for an extensive period, including some unfortunate public spats between opposition members on the issue over the past few weeks. It is pleasing that the opposition has come a significant way from where it was some weeks ago.

Honourable members interjecting.

The ACTING SPEAKER (Mr Lupton) — Order! The honourable members for Berwick and Melton! The honourable member for Richmond, without assistance.

Mr WYNNE — The Leader of the Opposition and the shadow Attorney-General suggested that the bill undermined the concept of marriage.

However, the bill contains simple principles, one being that all sections of the community should enjoy equal rights under the law, regardless of their personal, sexual relationships. The Labor Party stands for that simple proposition — for equality — and it will not tolerate discrimination.

If you accept that basic proposition, what follows is the bill before the house today. It contains a simple proposition; there is not a whole lot of science in it. Either you accept the basic proposition that everybody in this state should have equal rights and that therefore people should not be discriminated against on the basis of their sexual orientation, or you do not. The proposition is simple. This is a Labor thing to do; it is what the Labor Party stands for.

The opposition had seven years in government in which to do something about this. The genesis of the bill is a 1998 Equal Opportunity Commission report entitled *Same Sex Relations and the Law*.

Dr Dean interjected.

Mr WYNNE — I thank the shadow Attorney-General for his advice. I pay due credit to the former Attorney-General for instituting the report.

On the basis of the recommendations of the report, in 1999 the current Minister for Health in his capacity as Deputy Leader of the Opposition introduced a private members bill. What did the former coalition government do? It refused him leave to debate it. So much for your commitment to equal opportunity and ending discrimination against same-sex couples! You, shadow Attorney-General, and your colleagues refused to debate the bill!

The shadow Attorney-General made some extraordinary comments about the drafting of the bill. He cast aspersions on the parliamentary draftspeople and the people who advised the government. I am here to say that it was an honour to represent the Attorney-General on the gay and lesbian advisory committee, which was the group — —

Dr Dean interjected.

Mr WYNNE — Indeed, I am very happy to say that I am responsible, and I advise the house of the wonderful support provided to the government by the gay and lesbian community in framing this legislation.

A number of those people are in the house listening to this debate, and I will take the liberty of naming some of them. I refer to people such as Nan McGregor — —

The ACTING SPEAKER (Mr Lupton) — Order! The honourable member for Richmond will not refer to people in the gallery during his contribution.

Mr WYNNE — I am not sure that all of them are in the gallery — —

The ACTING SPEAKER (Mr Lupton) — Order! I do not care. You will not refer to anybody in the gallery while I am sitting in the chair.

Mr WYNNE — I want to thank these people, whether or not they are in the gallery. Jamie Gardiner, Janet Jukes, Danny Sandor, Chris Walker, Mike Kennedy, Marcus Patterson, Chris Gill and Miranda Stewart from the gay and lesbian lobby were absolute powerhouses in forming this legislation and in advising the government.

I also acknowledge the extraordinary work done on the bill by the Department of Justice, most particularly by two senior officers, Ruvani Wicks and Penny Dedes, who spent a huge amount of time in providing drafting instructions to parliamentary counsel. This is a significant bill that amends over 44 pieces of legislation that go to the heart of discrimination. The government is on about improving the daily lives of people. It believes that discriminating against people on the basis of their sexual orientation cannot be tolerated.

I will give the house a couple of examples of what will happen if the bill is not passed. Currently property transfers between same-sex couples attract stamp duty. If following separation one partner wishes to purchase a property from the other, duty is payable. In one case it amounted to $14 000, but it could be much more depending on the value of the property.

On the question of the illness or incapacity of same-sex partners, concern for the future wellbeing of a partner can contribute to the health problems of the other. For

example, following one partner's forcible commitment to a psychiatric institution, there is no obligation whatsoever on the state trustee to consult with the well partner about medical treatment. So although the couple may have lived in a same-sex relationship for 8, 9 or 10 years, there is absolutely no obligation on the medical officers to consult the well partner.

I will give the house another example — the tragic circumstances that arise when someone is bereaved. Following the death of a partner in a loving same-sex relationship the distress of the surviving partner can be magnified if their status is not recognised. This occurred during a Coroners Court hearing for a death by suicide. The remaining partner was grief stricken but was charged at the Coroners Court with impersonating a family member. What an outrage!

The matter of the dispersal of property following a relationship breakdown was also raised. A same-sex couple who spend many years together renovating a home, working on a farm or in some instances building up a business have great difficulty getting legal recognition for their contributions when they separate. Currently the only avenues available are costly common-law procedures or seeking equity in the Supreme Court. This has resulted in people losing not only their homes but also their livelihoods, with nothing to show for the years of work. Those sorts of situations are clearly intolerable.

Over the past few months all honourable members have received lots of correspondence on the bill. I received one particularly compelling and unsolicited piece of correspondence from a couple, which I want to read into the record:

> Dear Richard,
>
> We are writing to urge you to support the passing of the Statute Law Amendment (Relationships) Bill 2000 when it is debated before Parliament this session.
>
> We are a same-sex couple in our late 40s and have been together just on nine years. We have been fortunate that during our life together we have been accepted, loved and supported by our families, friends and our work colleagues. We would appreciate that you read this letter.
>
> Inequality in society is an unjust and evil thing. Many prejudices are the result of learned behaviours which individuals foster into dislike, intolerance, or pure hatred towards other members of their society.
>
> Gay and lesbian members of our society in respect of the issues raised in this bill do not have fundamental equality. The passing of this bill will reduce inequality so that at least on the issues raised there will be a level playing field for all on which to build their lives.
>
> These changes are about equality between unmarried heterosexual couples and homosexual couples. There are no special rights for gay men and lesbians. We will be adopting additional responsibilities and obligations that we are only too willing to embrace. This reform is about immediate practical equality and in no way encroaches on the institution of marriage. It clarifies the definition of 'domestic partner' and makes this definition apply to same-sex and de facto (unmarried) heterosexual couples equally.

They give an example:

> One example of inequality is the tragic discrimination faced by same-sex couples in the area of care for and access to seriously ill partners in hospital. We have had first hand experience with this issue when —

the person's name —

> former partner was dying of cancer a few years ago. To be denied the actual facts and information on which to make important decisions only added to the distress experienced in those circumstances.

Is it fair and reasonable that this discrimination should still be a part of our society? The answer to the question is no.

This is not groundbreaking legislation in one sense, because it is modelled in part on the Australian Capital Territory and New South Wales bills. However, it is groundbreaking legislation for this state. In the seven years that the Liberal and National parties were in government they did nothing about addressing this fundamental discrimination against same-sex couples. The community stands with the government and says, 'Yes, you are right'. The government has stood against injustice and has delivered on discrimination, and for that it will be applauded.

The negotiations between the government, the opposition and the Independents have been fruitful — particularly those with the opposition. The shadow Attorney-General exempted himself, delegating the Honourable Peter Katsambanis in another house to undertake negotiations on behalf of the Liberal Party.

I thank the Honourable Peter Katsambanis for his contribution to the negotiations on the bill. He treated the bill seriously and in response the government provided all information required to satisfy the concerns he expressed. We agreed to disagree on a number of matters, but his work during the negotiations was good. It is worth noting that the shadow Attorney-General exempted himself from those negotiations.

I wish to put on the public record that the government provided the opposition with a list of amendments last week. That was the agreement between

Mr Katsambanis and me, and the amendments were duly delivered. If the shadow Attorney-General was unable to catch up on those amendments he should take the matter up with the person who was negotiating on his behalf. In the spirit in which those negotiations were entered into, the government insisted on an exchange of information and legal opinions between the parties. The amendments were provided in good faith and in confidence to the Honourable Peter Katsambanis last week.

The bill has gone through an extraordinarily rigorous process within the government, and as the shadow Attorney-General said earlier, the gay and lesbian lobby sought advice from Felicity Hampel, QC, and Mr Shaw, QC. Both advices should lay to rest any concerns about the unintended consequences of the bill. By the shadow Attorney-General's own admission, Mr Shaw, QC, is an eminent Queen's Counsel in this area, and both advices amply address any concerns the opposition may have about the bill.

The amendments tabled by the government will be dealt with during the committee stage of the bill. The opposition has put a spin on the fact that there are 170 amendments and has claimed that the government has done a backflip. The government understands that the opposition has had to reposition itself given where it was a month ago out on the back patio. I was there and saw it all — what a performance! No more fighting over there! That is enough; we do not want to see it any longer.

Dr Dean interjected.

The ACTING SPEAKER (Mr Kilgour) — Order! The honourable member for Berwick!

Mr Hulls interjected.

The ACTING SPEAKER (Mr Kilgour) — Order! The Attorney-General! The honourable member for Berwick has made his contribution. The honourable member for Richmond, on the bill.

Mr WYNNE — My comments are absolutely on the bill, Mr Acting Speaker, because the blue on the back patio was about the bill. Nonetheless, we have progressed significantly.

No-one is fooled by the spin put on the 170 amendments and the claim that the government is backflipping. The government has simply put forward four amendments. One of the amendments will cascade through 44 acts. Similarly, the honourable member for Gippsland West put forward one amendment which will also cascade through a number of acts. The opposition can have its spin, but no-one will be fooled by it.

The bill is supported by eminent Queen's Counsel, the Law Institute of Victoria and the Bar Council of Victoria. All the opposition's mates in the legal profession have said it is a good bill.

At the end of the day we must get back to the basics of the bill. Members of Parliament should stand against discrimination and support the bill on the basis that it will end fundamental discrimination in the basic areas of people's lives. This bill will end that sort of discrimination, which is a Labor thing to do. I am proud to be the lead speaker for the government and say that the Bracks government will not tolerate discrimination against any person in the community regardless of their sexual orientation. Protection against discrimination is a fundamental right, which is why the government strongly supports the bill. I commend the bill to the house and wish it a speedy passage.

Mr McINTOSH (Kew) — It is regrettable that the government has disclosed its hand through the behaviour of the honourable member for Richmond. Both sides of the house are ad idem on ending discrimination against same-sex couples. The behaviour of the honourable member for Richmond troubles me, because it seems he wants to see the bill and the principal act used as a mechanism to bang the Liberal Party over the head.

I will outline the history of this issue. It was a Liberal government that decriminalised homosexuality in Victoria. The Liberal Party has taken many avenues, such as the Equal Opportunity Act, to end discrimination.

It was in fact my predecessor in Kew who asked the Equal Opportunity Commission to examine the issue of same-sex couples and whether they may or may not be discriminated against in this state. Armed with that report, the government has sat on it for 18 months now. What concerns me is that it introduced this bill back in November last year. The bill sat on the notice paper and now has been brought into the house along with 65 amendments, some of which are sponsored by the government, some by an Independent, and some by the Liberal Party. As we work through this issue together we are trying to solve a problem, to find a solution.

I know I was a lawyer before I came into Parliament, but as a young law student I well recall cases such as *Hohol v. Hohol* and *Baumgartner v. Baumgartner*, which related to de facto couples who had been living together, had made an investment in a relationship, an

investment in property and also an investment in the community, in the sense that many of them had children as well. Many of them were happy, amicable relationships and some were not. That can be applied to married couples and de facto couples as well as same-sex couples.

But the most important thing is that before people in this place decided to deal with the issue of de factos the courts themselves resolved in numerous cases like *Baumgartner v. Baumgartner* and *Hohol v. Hohol* to deal with the issue of the rights of individuals in these relationships. Of course it related to the breakdown of those relationships, either through death or separation of partners.

The courts determined that there was a common intention of those parties by their behaviour, by their acts, by their contributing to the household and things like that; by one partner perhaps bringing up children, by another partner perhaps doing the dishes at night and cooking the dinner. All sorts of considerations were taken into account by the courts. That is not something we did. We legislators did not do it. This was done by the courts before the issue was ever grappled with by this place.

Once they had established a common intention that the parties would contribute their lives, finances and emotions to a common relationship, the courts themselves imposed a remedy if one party decided to act in a way that was inconsistent with that common intention — a constructive trust. I can tell members of this house that establishing a constructive trust in a court of law is one of the most complex and convoluted processes for one to go through. That happened a long time before this place dealt with the issue. Finally it got to the point where the courts were doing it as a matter of fact.

Those sorts of avenues are probably still open to same-sex couples. I am unable to establish whether any case has gone to the Supreme Court or elsewhere, but probably some cases have done so. This place decided, notwithstanding the rhetoric that it was not promoting families or that it was not concerned about what was happening to children, to introduce amendments to legislation such as the Property Law Act, in some cases the Administration and Probate Act, and in some cases even the Transport Accident Act — all the acts we are dealing with here.

This bill is a piece of legislation that is in transition. We cannot legislate for what is a good relationship and what is a bad relationship. All we can hope is that people have the maturity — whether they get married or live in a de facto or same-sex relationship — to go into that relationship with honesty, openness and a degree of emotional attachment, and that they contribute to that relationship something that will perhaps contribute in a larger sense to our society.

What we should be doing in this bill is grappling with that issue. Despite what the honourable member for Richmond has said, there has been a genuine attempt to deal with this bill. It should not be used as a weapon to bang the Liberal Party over the head with; it is not something that the Labor Party has an exclusive purview about — it is something we should all be looking at.

That is why there are so many amendments to the bill. That is why the Labor Party is proposing amendments; that is why the Liberal Party is proposing amendments; and it is why an Independent member is proposing amendments — we are all grappling with the issue of how to end discrimination against same-sex couples.

In the beginning I was troubled by this bill in relation to three aspects. It was not about the principle. I was quite happy with that, because it is about the issue of trying to eliminate some form of discrimination against same-sex couples. I, too, was involved in the process as a member of the shadow Attorney-General's bills committee. I, too, had discussions with some members of the gay and lesbian community. Some of the names were mentioned today: Chris Gill, Jamie Gardiner and Miranda Stewart. I was trying to grapple with and convey to them — not terribly successfully — the issues that concerned me.

It really came down to three major points. The first concern I had was in relation to the administration and probate provisions. Former Attorney-General Jan Wade introduced major amendments to the testators family maintenance provisions — the part 4 provisions — of the Administration and Probate Act. That act prescribes a mechanism if somebody dies intestate for the distribution of assets with relation to married couples, not even de factos.

But the approach that was taken by the previous Attorney-General and by this place was to profoundly change the testators family maintenance provisions to enable an application to be brought before the Supreme Court, just like any other application, to establish a degree of dependency. Indeed, the context of those provisions was so broad that it was not confined just to married couples or to children, or even just to de facto couples; it was extensive enough to apply to any form of special relationship. Sure, there was prescription as to the things the courts could take into account — for

example, the financial contributions — but fundamentally and most importantly, under section 91 a court had to have consideration for the proper maintenance and support of a person for whom the deceased had responsibility to make provision. The most important word there was 'responsibility', and that responsibility could be derived by emotional attachment or financial contribution, and it was terribly broad.

What concerned me was that at present same-sex couples or anybody who established that degree of responsibility has the right to make an application. To rejig the intestacy provisions, which is a fairly easy way of looking at it, is not necessarily a solution. That was something that concerned me, and perhaps the Liberal Party's amendments go some way towards addressing that concern.

My second issue of concern related to the amendments to the Property Law Act and the definition of the gateway — the ability of a person to make an application to a court. Of course, it is a long and turgid process for someone to make an application to the court. But the primary criterion was a two-year period, to establish some degree of permanency in a de facto relationship before you could make an application under the Property Law Act.

The provisions of this bill address not the two-year rule, which still exists, but the issue about children. Regrettably in this state — perhaps not regrettably — the only way that a child can be brought into a relationship is by way of natural sexual relations, by adoption and by the deeming of a person to be the father, and that was also a criterion, a gateway, that eliminated the two-year process. You could make an application if there was a child of the relationship.

But the amendments that were made here by the original bill addressed the issue of a child in a relationship, irrespective of who brought that child in as part of the gateway process, whether or not the other partner was deemed to be the father of the child. That has been accepted by the government. It was accepted very readily, as I saw it, from the very outset. As soon as that was made, it was accepted. I am very grateful the government has amended the bill.

My primary concern was the definition of a domestic partnership — the same-sex couple or a de facto relationship — which probably caused most people angst. It appeared to be too loose and ill defined. Propositions were put into the second-reading speech by the Attorney-General but they are not part of the legislation. Unlike what is contained in the Administration and Probate Act and the Property Law Act, the criteria for establishing a relationship was not specified in an act of Parliament and it could have been open to a court to make all sorts of interpretations that would probably have been misconceived and unintended by Parliament. Accordingly, the government has sought to amend a number of provisions by emphasising the word 'couple', by changing the purpose clause and, most importantly, by redefining appropriate definitions in various acts.

The definition of a domestic partner is also important — this is probably not quite as crucial — because the courts look to this place for guidance. They have used that guidance in relation to the Property Law Act and would relish an indication from the legislature prescribing what criteria should be taken into account. As was the honourable member for Berwick, I am intrigued by the attempt of the honourable member for Gippsland West to do so. I understand the proposed amendments have been drawn from a New South Wales example. They will be looked at closely and will probably receive the opposition's support. Many of the factors are important — permanency, a degree of emotional attachment and public statements.

It is most important that everybody in this house try to eliminate discrimination in its true sense; it is just a question of how we get there. The government should not use the bill as a mechanism to whack the opposition over the head. That is not what the opposition wants and it is not what the government wants. We are all trying to do our job; it is just a question of how we get there.

Mr LEIGHTON (Preston) — I am proud to support the Statute Law Amendment (Relationships) Bill. I congratulate the Attorney-General not only on introducing the bill but also for his personal commitment and drive in doing so. I consider it to be one of the most socially progressive pieces of legislation I have seen during my 12 years in this place. As landmark legislation I consider it to be up there with the dying with dignity legislation that was introduced just before my election. When the community looks back on the socially progressive legislation passed by the Victorian Parliament, this bill will be up there at the top of the list.

As have a number of other honourable members, I have received a heap of correspondence, mostly by email, including some from the Deep North — from Queensland. If Pauline Hanson was not the author then it was written by her close supporters. The sorts of accusations that have been made are that somehow Parliament is breaking down the institution of marriage

and promoting homosexuality. What absolute nonsense! It does not matter what the law says about the sorts of relationships people choose to enter into, they will do so anyway. One has only to look at Tasmania, where although until a short time ago the state outlawed homosexuality, it cannot be said that people did not choose to enter into homosexual relationships.

The simple view I take is that consenting adults should be free to choose to enter into whatever relationship they desire, and the law should not discriminate against them. Just as it is abhorrent to discriminate against people on the grounds of gender, race or religion, the same goes for sexuality. It is nonsense to say that because Parliament is reversing that discrimination that will somehow break down marriage or promote other forms of relationships. I believe people will enter into such relationships irrespective of what the law says. The house is being asked to remove forms of discrimination that exist because of the law, and such discrimination is evil and wicked.

I had some difficulty following what the honourable member for Berwick meant by discrimination. He was trying to say that the decision you make to send your kid to a government or public school is discrimination. It seems to me that that is a choice, but a choice not everybody is able to make because of economic capacity. The honourable member would have us believe that deciding whether to go to the footy or watch a movie is somehow discrimination. That is nonsense. Discrimination is when the law says you have fewer rights to transfer real estate or to be the beneficiary of superannuation because of your relationship.

Discrimination was driven home to me starkly in early 1999 when I examined the circumstances of two friends who came to me for assistance. I will refer to them as Simon and Ted, although those are not their real names. While I have spoken to one of them today, and he is happy for me to refer to their circumstances, it is probably best that I protect their privacy to some extent.

I have known Simon and Ted both as friends and professionally almost as long as they have been in a relationship together — 25 years — and they would describe themselves as life partners. They are professionals, and are committed, decent and intelligent people. Where the law is a real ass is that although they are professionals in the same occupation, whereas on the one hand Simon works in the private sector and has been able to name Ted as the beneficiary of his superannuation under the conditions of the scheme of which he is a member — if anything happens to Simon, Ted will be the beneficiary — on the other hand because Ted is employed in the state public sector he has not been able to name Simon as his beneficiary.

When he attempted to do so in writing to the state superannuation board, he received a letter that states:

> … benefits are payable to a spouse or children. The definition of spouse is:
>
> > A person's husband, wife, widower or widow or a person of the opposite sex who, though not legally married to the member, in the opinion of the board lives or lived with the member at the date of death on a bona fide domestic basis as the husband or wife of the member.

Ted has a couple of family members from whom he has been estranged for a long time and no dependants. He is an intelligent adult and it should be his prerogative to name his life partner as his beneficiary. However, even though he has attempted to do that in his will and by letter to the superannuation board, if anything were to happen to him today the board would have the final say on the matter and could hand his superannuation payout over to his estranged family members rather than to his life partner.

It is also ridiculous that although the house they live in is owned by Ted, and that while he cannot leave his superannuation to his life partner he has named Simon as his beneficiary, if anything happened to Ted today they would be discriminated against in respect of stamp duty.

In early 1999 when Ted and Simon sought my assistance Labor was still in opposition. As there was no reasonable prospect of such legislation being introduced at a state level, I turned to one of my federal parliamentary colleagues for advice. I was hoping there might be something in either the federal superannuation or discrimination legislation to help. The answer I received after research was that the best that could be hoped for on that front was a private member's bill introduced by the federal Labor Party dealing specifically with superannuation entitlements.

So far as I know that has not been dealt with by the federal Parliament, in the same way as there was no reasonable prospect of legislation such as this being introduced until there was a change of government in this state.

While the honourable member for Berwick waxed lyrical about the amendments, what they have really done is allow the opposition to extricate itself from the mess it has got itself into. The former Attorney-General, Jan Wade, was a deeply

conservative woman and some of her actions discriminated against people in de facto relationships, let alone same-sex partners. It took a change of government to introduce legislation like the bill before us.

The object of the act, to be inserted by the Attorney-General's amendments, is:

> … to recognise the rights and obligations of partners in domestic relationships where there is mutual commitment to an intimate personal relationship and shared life as a couple, irrespective of the gender of each partner.

My friends Simon and Ted certainly meet that criteria; however, if anything were to happen to Ted today, Simon could not be a beneficiary of Ted's superannuation payout. I hope that situation, which in my view is evil and wicked, will not apply for much longer. I will be pleased to see the bill pass quickly.

Ms McCALL (Frankston) — As part of the role of the Parliament, different types of proposed legislation come into the chambers for very different reasons. One type is based squarely on party policy and philosophies; the second is based on a recognition that something within the community needs to be addressed and redressed.

The bill we are debating today, which has finally reached this chamber, is not about party politics or philosophies; it is about a community and a society that has moved forward and in 2001 recognised where discrimination lies, resulting in a piece of legislation coming to Parliament to seek to address that discrimination.

It is unfortunate that most of us have bought into a political argument when the bill is a community issue. I would not be standing in this chamber as a female member of Parliament if I did not believe in equity, equality, rights of access and the right to be regarded in exactly the same way as and by any other member of the community. It was on that basis that I approached the bill from a personal perspective and also from the perspective of my electorate, whether it be to represent or to be as a representative of my electorate, whether I reflect the views of it or whether I am allowed within that reflection to put my own personal views and philosophies on it. It was for that reason that, from the very beginning, I disliked the manner in which the proposed legislation was introduced. I believed very strongly that it was fundamentally flawed.

We have before us 65 amendments. Even if each amendment changes only two words in one piece of legislation, 44 pieces of legislation will be affected by the bill, and it would be criminal if honourable members in this chamber did not recognise that we have to get it right. Legislation is a living and breathing thing, and the legislation that goes out into the community must be something that its members believe will work. The original piece of legislation would not have worked. It was incumbent upon all of us, whatever our political persuasions, to work, lobby and negotiate for whatever we believed was appropriate to ensure that the legislation we debate in this chamber today is appropriate and does not give any one group in our community a fairer deal than any other, does not raise the bar so high that some people can never jump it and does not lower the bar so that those who already enjoy benefits of protection of property, children, marriage and other rights do not lose them. That is the basis of equity. Equity is not about lowering the level; it is about bringing everybody up to the same level.

As a member of the shadow Attorney-General's bills committee and as a non-lawyer, I have to say that when members of the committee read through the bill we found it to be a long, convoluted and complex measure. We searched high and low for the right sort of advice. People had told me before that if you put two lawyers in a room you will get three opinions, and that was exactly what happened. All the lawyers and barristers we approached had a personal view that tended to override their political or legal views.

We are dealing in this chamber today with legislation that is fundamental to a society and reflects how that society has changed, how we as members of the society have moved along and how we have chosen to move along. Some of us in this chamber will never be comfortable with anything other than marriage. Some people in the community are uncomfortable with the concept of de facto relationships. My parents, who are probably from the same generation as those people, still cannot understand why their only child is divorced.

Some people are still uncomfortable with a society that talks about same-gender relationships, in-vitro fertilisation, surrogacy and other unpopular topics that will no doubt come back onto the agenda, such as euthanasia and capital punishment. It will be the measure of our society and the way it lives and breathes if, in this year — the year of the centenary of our Federation — we can all recognise that there are some things we will have to learn to deal with even if we are not totally comfortable with them.

I support the amendments proposed by the Liberal Party to extend the purpose of the bill, because one of the fundamental foundations of a society, however much it may flex and move, has to be the protection of

family, whatever that means in the community nowadays and whatever it means for the protection of children. I am comfortable with that proposed extension as well as with the amendment proposed by the honourable member for Gippsland West that refers to long-term relationships and a visible and acceptable commitment between two people. Whether those two people are a male and a female, two females or two males is irrelevant — it is about the commitment they have given to each other.

We live in a society that in many areas is not committed: things become fashionable and faddy, things move along, and what is fashionable on television one week may not be fashionable the next. However, when we are talking about relationships, the word 'commitment' is crucial.

Other issues dealt with by the bill have been talked about by my colleagues and I am sure they will be thrashed out ad nauseam. I am not comfortable with the Administration and Probate Act parts of the bill. I admit that I am not a lawyer, and therefore I have some problems grasping the differences between the two-year and the five-year rule. However, if the fundamental piece of legislation before us today is to eliminate discrimination, bring equity to all members of the community and make them part of a society that all of us would defend, for whatever reason or purpose, it must be the best piece of legislation we can produce. There is no place for political point scoring or grandstanding. If the bill passes through this house and through the upper house, it must redress the imbalance and give a sector of our community equal rights in the eyes of 44 pieces of legislation.

I am sorry it has been such a protracted exercise to get the bill here. However, I am pleased that as a result of the negotiations, lobbying and talking we will end up with a much better piece of legislation.

As one of the 20 Liberal members of Parliament who put her name to an advertisement for the Midsumma 2001 festival, I stand by the commitment I made by putting my photograph in the festival magazine. That commitment was that we will fight for you; we will not fight to give you more rights than anyone else, but by God we will go to the wire to give you the same rights as everybody else!

Mr NARDELLA (Melton) — Like other honourable members on this side of the house I strongly support the bill. It is legislation for the new millennium and recognises the reality of the situation that exists now and has existed since time immemorial. Since we came to this land and colonised it in 1788 our society has only recognised heterosexual relationships. That concept of marriage has been recognised for many years and the gay and lesbian relationships that exist within our society have not been dealt with effectively, efficiently and correctly.

One of the stark points I noted from the honourable member for Berwick's contribution was that he did not say the word gay, homosexual or lesbian, which is a pity because people must be recognised and part of that is to call them what they are. In that sense it does not befit the Liberal Party not to recognise those relationships by saying the words; it irks some opposition members to say them.

The legislation gives people the same rights that the vast majority of members of our society enjoy and extends the rights to heterosexual de facto couples in a number of areas. But the main crux of the legislation and the policy that the Labor Party went to the electorate with in 1999 is to look after gay and lesbian couples who have been discriminated against. Some couples have been in situations where they have not been recognised — for example, where a couple has contributed to the purchase of property over time within a relationship but following the death of one of the partners the other's rights have not been recognised. Family members have shunned the partner at the funeral and at other times of grief because they did not want to recognise them in those situations. Our community has sanctioned this discrimination on a continuous and ongoing basis.

That is not what the Labor Party is about. It decided to consult widely. The legislation was tabled in August last year, allowing the Liberal and National parties to put on their thinking caps and consider the issues in a serious way to decide how the legislation should be dealt with. But earlier this year they made an opportunistic decision that made it simple for the right wing of the parties to knock off the legislation. The Liberal and National parties were going to do that because they could not bring themselves to recognise gay and lesbian relationships within our society. That was wrong, and discussions with the gay and lesbian community continued within and outside the Liberal Party to change the Liberal Party's views.

The lazy honourable member for Berwick did not want to take the time or put any effort into proposing amendments, so the honourable member for Gippsland West has played the role of the Liberal Party and put in place a number of amendments that the opposition now finds acceptable.

Mr Doyle interjected.

Mr NARDELLA — The opposition was too lazy to do the hard work itself, and yet opposition members are bleating at the moment saying they strongly support the legislation. You would not want to scratch too hard because their commitment is demonstrated by the amount of work they have put into the amendments before the house today. That is the shame of it, because in many instances the Liberal Party has a proud and strong historical position of supporting the underdog and people who have been unfairly discriminated against. It irks me because the Liberal Party has a tradition in a small 'l' liberal sense of looking after disadvantaged groups when it has the courage and backbone to do it.

All the National Party leader could do in his contribution was read the commonwealth Marriage Act. He did not want to recognise the vast majority of other de facto relationships in our society, be they heterosexual, gay or lesbian.

He did not want to talk about those relationships, yet his logical conclusion was that unless people are in heterosexual relationships and have made their marriage vows — he went through the commonwealth legislation on the matter, chapter and verse — society would not recognise them and they would not be considered real people. He believes you are not a real person unless you are heterosexual and married and have gone through the process described in the commonwealth legislation which he championed and waved before honourable members. Today is a sad day for the National Party, and it is a sad day for the gays and lesbians in loving, long-term relationships who are constituents of National Party members of Parliament. They should not be discriminated against, yet National Party members can do no more than read the commonwealth Marriage Act to the house. That is extremely sad.

The bill deals with a number of issues. The first is access by the surviving partner of a deceased person to superannuation benefits. The honourable member for Preston gave us an example of that. The legislation also proposes amendments to legislation on other financial matters, including access to pensions and compensation, the ability to make decisions on the death of a partner, being allowed to attend the funeral of one's partner — a basic human right — property access, and an early end to the discriminatory taxes imposed on gay and lesbian couples. The bill also ends the risk of the surviving partner being discriminated against by the deceased partner's family, such as being thrown out of the couple's house.

The legislation, which is progressive, has been a long time coming. It deals in an intimate way with the lives of the individuals and couples involved and the real-life discriminatory situations they face on a daily basis. It amends, for example, the Retail Tenancies Reform Act and the Residential Tenancies Act to remove discrimination against same-sex partners in tenancy matters.

This important legislation deals in a strong and positive way with the relevant issues. People in my electorate will welcome its provisions. Honourable members on this side of the house support it strongly. As I said, the bill has been a long time coming, and I urge all honourable members to support it.

Mr SAVAGE (Mildura) — The question that needs to be asked is why the government supports marriage. Are its reasons based on the fact that the family unit is the cornerstone of our society and its foundation?

In its role of raising children the family unit works for society and for the state. I believe we need to spell out the fact that without children we do not have a society. Most honourable members will be aware that the sacrifices required to fulfil that role are huge. Families should, therefore, have an elevated and unique status in society. Marriage is not just a couple of people getting together for the sake of convenience. It is a commitment — a lifelong commitment in many cases. Marriage is the fundamental institution for the raising of children. It is the cornerstone of the society of tomorrow, and it should remain that way.

I know there are many emotional arguments as to why we should go down this other path and extend entitlements to the homosexuals and lesbians in the same-sex lobby, but I disagree. We have already decriminalised those activities, and the members of those groups are not being discriminated against, in the sense that we no longer look on them differently or as people doing something illegal. Homosexuality is legal, and the state recognises that fact.

Marriage must retain the fundamental importance we currently give it. The bill, whether you like it or not, attacks the fundamental institution of marriage and the raising of children in families.

The commonwealth Family Law Act says that the Family Court must aim:

> … to preserve and protect the institution of marriage as the union of a man and a woman to the exclusion of all others, voluntarily entered into for life …

It must also aim:

> … to give the widest possible protection and assistance to the family as the natural and fundamental group unit of society, particularly while it is responsible for the care and education of dependent children …

An American anthropologist and senior fellow at the Hudson Institute, Stanley Kurz, observed that:

> … although most Americans are indeed opposed to the legalisation of same-sex marriages, large numbers of the same Americans do not consider homosexuality itself a sin, and they welcome greater tolerance for homosexuals.

Favouring equality, people often do not wish to see anyone denied their rights — but there is some ambiguity here. We have a muddled understanding of democracy if it indicates that we have to extend the notion of equality to the point where it subverts the democratically held beliefs of the majority of the people. I believe the bill subverts the beliefs of the majority of Victorians.

Another American academic, James Q. Wilson, has said:

> What is distinctive about marriage is that it is an institution created to sustain child-rearing … because after much experimentation — several thousand years, more or less — we have found nothing else works as well.

The bill needs to be looked at. We need to understand how it has been developed, how it comes to its conclusions and who made the recommendations.

The recommendations are from a limited group of people, including the Attorney-General, the Deputy Premier, members of the Equal Opportunity Commission, the Victorian Gay and Lesbian Rights Lobby, Transgender Victoria, the Fertility Rights Action Group, the Victorian AIDS Council, People Living with HIV/AIDS Victoria, the ALSO Foundation and the parents, families and friends of lesbians and gays. No family groups gave recommendations on the legislation. I believe that is an unfortunate vacuum.

What are the outcomes of the legislation? I have seen the amendments proposed by my colleague from Gippsland West, and I know what their intent is. They will not resolve the fundamental flaws the legislation is proposing: property settlement will be very difficult to deal with because the amendments refer to one or more of these descriptions that relate to what a relationship is. If they are all included as pertinent indicators of what a relationship is, maybe that would make it a little clearer, but at the moment if people speak to anyone involved in property settlement and Family Court issues they will realise that it is a most vicious, uninspiring and difficult area that inflames people's emotions to such an extent that they commit murder, burn down houses and harm each other. I believe the bill will extend those sorts of problems. Family Court property distribution processes are not working.

Where does the Liberal Party stand on the bill? I have been getting confused messages and have seen some newspaper articles that claim the party is in favour of the bill and others that claim it is opposed to it. When I became aware of the material in the back of the *Midsumma* 2001 magazine, where there is a colour picture of 20 Liberals under the heading, 'We'll fight for you', I thought back to the previous government when there were a number of issues that I thought were important at the time, such as the nobbling of the Auditor-General, privatisation and taking away freedom of information rights. None of the then government members was there fighting for the people of Victoria. I wonder why they have suddenly found their voices.

Perhaps there is a clue in the article of the *Age* of 25 March, which reports a well-documented altercation on the back porch of the Parliament. I give the shadow Attorney-General credit for taking a stand that obviously upset some Liberal members. According to the article the honourable member for Brighton took exception and said that the shadow Attorney-General had cost the party three seats — Prahran and the seats of two upper house members. The article reports the honourable member for Brighton as saying:

> He's done a terrible thing to the party. He's cost those members their seats.

I would have thought the important issue was whether the legislation is appropriate, not whether anyone will lose seats. Is it a fundamental issue on which one should base a belief, or is it purely and simply a case of, 'If we move down this road we will lose seats so we'd better not to do it'? I know some honourable members are concerned about the concept reported in the *Midsumma* magazine, but I believe it indicates there is a fair degree of uncertainty in the Liberal Party.

Mr Perton interjected.

The ACTING SPEAKER (Mr Kilgour) — Order! The honourable member for Doncaster will have his opportunity if he stands in his place.

Mr SAVAGE — I commend the shadow Attorney-General because at least he has shown that he believes in something — contrary to the honourable member for Doncaster.

Mr Perton interjected.

Mr SAVAGE — No, I do not. I believe the bill will disadvantage some same-sex couples in a way that is not intended. I believe that is something the house has not really considered. In a recent letter the Leader of the Opposition said:

> The Liberal Party is also a proud supporter of the family and is committed to the special needs of children. The party is also committed to the protection of the rights of individuals in our society …

How can the Liberal Party endorse the legislation when in the property settlement area people will not have to prove that they are in a long-lasting relationship? If a person is deceiving his or her spouse — —

Mr Perton interjected.

Mr SAVAGE — You do not want to hear the message. The honourable member listened in silence to other members, but when he hears a message that he does not like, he interrupts. In the area of property settlement a person has only to front up for a period of two to five years. They could have multiple relationships and if one of the partners dies, that entitles them to automatic property inheritance. That is a fact; it is in the bill. All a person has to do is give evidence on oath and, without any other evidence that is more compelling, that position will prevail. Whether the Liberal Party likes it or not, that will be the outcome.

Analysis should also be done on some of the data that comes from America with regard to same-sex couples and how they are viewed in the research. I turn to figures published by the US Family Research Unit based in Colorado that state:

> In 1987, only 23 per cent of gays in London reported sexual exclusivity 'in the month before interview'.
>
> In 1990, only 12 per cent of gays in Toronto, Canada, said that they were in monogamous relationships.
>
> …
>
> In 1994, the largest national gay magazine —

in San Francisco —

> reported that only 17 per cent of its sample of 2500 gays claimed to live together in a monogamous relationship.

That is an indication that there will be problems in this area. The article continues:

> Even gays who do have long-term partners do not play by the typical 'rules'. Only 69 per cent of Dutch gays with a marriage-type 'partner' actually lived together. The average number of 'outside partners' per year of 'marriage' was 7.1 and increased from 2.5 in the first year …

An honourable member interjected.

Mr SAVAGE — We are talking about changing property settlements; we are talking about doing some pretty radical things with this legislation. I have serious concerns about the bill, and I will oppose it. I will oppose the amendments put forward by my colleague from Gippsland West, by the Liberal Party and by the government.

Ms DAVIES (Gippsland West) — I appreciate the opportunity to speak on the bill. I understand that it is not an easy bill for many people to deal with. I accept that there are people in the community who would prefer that same-sex relationships did not exist and there are people who believe that a recognition of same-sex relationships somehow devalues the importance of marriage and the nuclear family. I have received many letters from around Victoria, including some from within my electorate, that clearly indicate that attitude.

I place a great deal of importance on marriage, family and community. I regret the trend in society for many people to voluntarily choose not to formally register their commitment to each other through marriage. I wish that all children could be raised knowing that their needs come first and that they are loved and valued in a stable home. However, not all good, loving families look the same. Not everybody does or can marry. I strongly believe that family is about love, caring and sharing and is not necessarily about gender or certificates.

I also acknowledge and accept that families can change and break down over time. To me the bill just accepts that reality. I accept that reality, and that is why I will support, with the amendments, the bill before the house.

The bill will help to reduce the discrimination that must cause many people a great deal of distress and I believe has probably been causing a great deal of distress for a very long time.

The bill amends 44 acts to recognise domestic partners, irrespective of gender, for rights and responsibilities currently given to married couples and heterosexual de facto couples. It aims to end discrimination experienced by same-sex couples in issues of property, compensation, superannuation schemes, health-related legislation, criminal law and consumer and business legislation.

I stress that considerable additional responsibilities are entailed in the legislation as well as additional rights, as some people call them. The first home owners grant, which many people are talking about since the amount has increased considerably, is an example. Currently,

the grant is available to a person in a relationship where their partner may previously have received a grant. If people are gay they can receive a first home owners grant despite their partners having already received one because currently the law does not recognise them as a couple in a relationship. Under the proposed law, which I hope will pass through the house, that will no longer be possible, and most people will say it should not be.

Concerns were expressed to me that the original wording of the bill, particularly defining the new term 'domestic partner', was overly general. Everyone is clear about 'marriage'. If people are married they have a certificate. Nothing will reduce the importance of that formal and public acknowledgment by a couple that they wish society to recognise them as one.

There were concerns that the term 'domestic partner' as used in the bill was too broad and that unintended consequences might arise where people casually sharing an abode or in a loose relationship would be able to claim entitlements and privileges. I discussed those concerns with the government, as is my duty as a member of Parliament, and the government listened. Together, we took a lot of time to negotiate, and long discussions were held with other parties and the opposition, which I value. I very much value such negotiations as a feature of the Bracks government. I hope it continues even when the numbers are not so tight and that any future Liberal or coalition government will continue that preparedness to negotiate with different groups in society. I missed those opportunities when the former government was in power.

After those long and involved negotiations we ended up with a tightened definition of 'domestic partner'. That has been added to the legislation rather than merely being referred to in the second-reading speech. The bill is now strengthened and I hope that that tightened definition will relieve some of the concerns expressed to me. The shadow Attorney-General has acknowledged that the amendment has helped to change the opposition's attitude to the legislation. In that sense I am pleased to have assisted.

I appreciate the government's amendment, which clarifies the object of the act.

The ACTING SPEAKER (Mr Kilgour) — Order! The honourable member for Polwarth must not walk between the Chair and the member on her feet.

Ms DAVIES — The amendment states:

> The object of this Act is to recognise the rights and obligations of partners in domestic relationships where there is mutual commitment to an intimate personal relationship and shared life as a couple, irrespective of the gender of each partner.

I appreciate that amendment and the government's and opposition's acceptance of the amendment proposed by me.

It is important to clarify the issues that define what is a committed long-term relationship. When considering whether two people are in a domestic partnership, the duration of the relationship, the nature and extent of common residence, the degree of financial dependence or interdependence, the ownership and acquisition of property, the degree of mutual commitment to a shared life, the care and support of children and the reputation and public aspects of the relationship will be taken into account. I consider all of those features to be important demonstrations of what constitutes a domestic partnership.

Obviously not all relationships share the same characteristics, and it is not possible to provide a fixed definition. However, these are the kinds of parameters I hope other members of this Parliament also believe define a relationship.

I said earlier that I value marriage as an institution enormously. There is something special about two people being able to stand together publicly and declare their intention to live together as one — and I repeat, nothing will ever detract from that. However, life is diverse, as are the forms of long-term, committed and loving relationships. I accept that different forms of loving relationships exist and that some relationships are heterosexual while others are homosexual.

The opposition has said it will support the bill, so it should go through both houses of Parliament and become law. I hope the amendments I have circulated, plus those circulated by the government, will help others feel less anxious about this legislation than they did initially.

We do not have complete consensus in this Parliament, and in the same way I do not expect us to achieve complete consensus in the wider society. However, we have a greater consensus than we had, which I see as a benefit.

I am pleased to have played a constructive role in achieving that greater consensus, and I am pleased to support the bill.

Ms BURKE (Prahran) — The Statute Law Amendment (Relationships) Bill deals with important matters relating to the extension of legal rights for gay

and lesbian couples. Its real importance lies in the acknowledgment it gives us all.

During the public debate on this bill I received a number of telephone calls and messages from people in the gay and lesbian community who were hurt by the media debate. I place on the public record my apologies for any hurt caused by the debate on this bill. I acknowledge the respectful and professional manner in which the gay and lesbian community treated me and my colleagues during the difficult times associated with the amendment of this important legislation.

I also place on record a brief history of gay and lesbian law reform in Victoria. It is important in this context, where debate can get heated, to understand that this is not about party politics. It is about us as Victorians and our respect for the rights of our fellow Victorians.

In 1973 the Hamer Liberal government moved to decriminalise homosexual acts between consenting adults. Debate continued for a number of years before the legislation was finally passed in 1980. In 1995 the Kennett government introduced the Equal Opportunity Act, which specifically outlawed discrimination on the basis of sexual orientation. That government's intention was to see that all Victorians, regardless of their sexuality, were entitled to a fair go.

The former Liberal Attorney-General, the Honourable Jan Wade, introduced legislation to protect homosexuals, lesbians and heterosexuals from discriminatory actions that had been occurring for many years. In 1997 the Equal Opportunity Commission undertook investigations into same-sex discrimination to identify the concerns of groups affected by Victorian laws and regulations. It identified 44 acts of Parliament that discriminated against Victorians.

In 1998 the Honourable Jan Wade initiated a comprehensive whole-of-government legislative review to ensure that all Victorian acts complied with the Equal Opportunity Act. It was no small feat to look at not only the 44 pieces of legislation that were altered but all Victoria's legislation. I am proud to say that I was there with my colleagues, many of whom are in this Parliament, pushing for the review to be as speedy and comprehensive as possible.

In 1999 the then Deputy Leader of the Opposition, now the Deputy Premier, sought leave to present a private member's bill that addressed many equal opportunity issues. However, at the time we were not quite ready for it. Finally in 2000, following the Labor Party's coming to power, the house passed equal opportunity legislation on gender identity and sexual orientation. I was proud to be involved with that, because over the years I had seen appalling discrimination against members of the transgender community.

It is important to put this legislation in some context. This is not a political debate about the philosophies of those on either side of the house. It is about overcoming discrimination against our fellow Victorians. It is important to get the legislation in. We have been in partnership on this for many years, and Parliament has been dealing with it for nearly 30 years. Today is another step in recognising what Victorians feel.

I do not have a lot of time so I will read a letter I received from a constituent, because it explains much about what the gay and lesbian community have had to tolerate over the years. I have received many marvellous letters and emails not only from people in this state but also from people around Australia and overseas who were born in Victoria and will now be returning to this state.

This is about a situation of a constituent of mine. I will read it because it is important for members to understand the impact of people's lack of understanding of others:

> When I was 15 I was bashed by a group of older boys. While I was being bashed I was constantly being screamed at that I was a 'stupid faggot' and 'unnatural' amongst other things.
>
> I was later taken to hospital and had surgery to fix the damage that had been caused by a stick that had been smashed into my face. I still have the scars.
>
> That was 13 years ago but the impact it had on me has not diminished. I have since come to terms with my sexuality and have been lucky enough to enjoy the support of a loving family and some very close friends.
>
> Despite this, for a long time I still had difficulty believing I was as worthwhile a person as someone who is heterosexual.
>
> When I was 19, my self-loathing reached a peak. I suffered from depression and attempted suicide.

No-one in the house would fail to recognise that so much of youth suicide is about others not accepting who we are and allowing us to express our feelings.

> I have built for myself a life I am pretty proud of. It includes a sense of my own value and the contribution that I can make to the lives of my family and friends and hopefully to the community I live in as well.
>
> I like to think I am a realist.
>
> I do not believe that the relationships bill will end all of the discrimination that is perpetrated against gays and lesbians.
>
> I do not believe that it will force people to treat gays and lesbians with the same respect that any human deserves.

I would like to hope that as we continue to change the legislation they will be treated as all humans deserve to be treated.

> But I do think that this bill will mean that the state will recognise the worth and value of all its members.

I do not believe any citizen in the state believes a Victorian should be taxed or punished for their choice of partner. I believe the bill will help other, perhaps younger gays and lesbians, to feel more worthy and to understand and not feel the fears that they have in the past.

I am proud to be associated with the bill. I thank the community for assisting me with it and I thank my colleagues who said in the magazine they would fight for the legislation — they have been true to their word. I thank all those involved for removing discrimination of our fellow Victorians.

Sitting suspended 6.28 p.m. until 8.03 p.m.

Ms GILLETT (Werribee) — It is my privilege to make a brief contribution on the Statute Law Amendment (Relationships) Bill and, at the outset, to place on record my gratitude and appreciation on behalf of my constituents and probably the vast majority of Victorians, to the Attorney-General and to his hardworking, patient and persistent parliamentary secretary who have worked so hard to make sure the bill has come to this stage and is before this chamber of the Victorian Parliament. It is a gratitude that comes from the whole of the Victorian community.

My background in the trade union movement colours my view of the bill. It is my view that the bill is about equal rights for love of equal value. No-one can judge the quality and value of a relationship, but one can judge the difficulties and impediments that statute and common law can put in place that take away the right to and the necessity for equality. For me, the bill is about our parents, our best friends and our children. The bill seeks to restore a notion of equity and balance over 40-odd other bills.

My role as the chair of the Scrutiny of Acts and Regulations Committee also colours my view of the bill. When I consider the bills the Statute Law Amendment (Relationships) Bill seeks to amend and alter because they are in essence unfair and discriminatory I am shocked and ashamed because a number of the bills ought not have ever passed the scrutiny process which, as members know, involves examining a bill or regulation with the view to considering whether it trespasses on people's rights and freedoms. If ever there were trespasses to rights and freedoms they are demonstrated admirably and rectified brilliantly by the bill. In our weekly deliberations of proposed legislation the Scrutiny of Acts and Regulations Committee will ensure with new and invigorated enthusiasm that every Victorian's rights and freedoms in every aspect of their lives is covered.

It is fair to say that the Property Law Act of 1958 did not have the benefit of the committee's views to guide its passage and amendment. Neither did the Education Act of 1958, the Health Act of 1958 or the Partnership Act of 1958. These acts were passed into law without scrutiny of how they affected people's rights and freedoms.

In essence, the Statute Law Amendment (Relationships) Bill seeks to rectify that lack of scrutiny and the inability of Parliament to get advice on whether a bill will affect people's rights and freedoms. In this instance it has taken a monumental amount of work by the Attorney-General, the parliamentary secretary and the officers of the Department of Justice, who serve them well, to look through a vast array of legislation to see which changes need to be made and to bring all the changes together in one bill.

Having listened to the debate since it started this afternoon, I have been surprised by some of the contributions. I emphasis for the record three important relationships that this bill seeks appropriately to recognise. The first is the relationship between two women who do not live in this country but who are very dear to me and have been partners for more than a decade. Without a shadow of a doubt they are two of the most intelligent, caring, dedicated and devoted people — not only to each other but also to the communities and the professions they serve — I have ever met. I have often told them that if they were ever interested in adopting someone I hope it would be me, because in their homes — not one home but two homes, because they are independent and mature women — they provide the most loving environment anyone could hope to experience. This bill helps to redress the balance so that loving relationships like theirs can be acknowledged in the same way as heterosexual married relationships are.

The second relationship to which I refer is one between two people who are very dear to me — my mother and stepfather. They have been together for 25 years, but they were not always married. In their getting-to-know-each-other period one lived in Sydney and the other lived in a country town in New South Wales, and they commuted between the two homes. Together and separately they lovingly brought up four children, my three brothers and sisters and me. They

still commute between the two homes and continue to bring up four children lovingly, and the nine grandchildren we have managed to produce are included in that.

I rarely disagree with my esteemed colleague the Leader of the National Party, but having listened to his contribution I must say a few things about the sanctity of marriage and the sanctity of loving people. In my view marriage is sacred and important, but marriages without love or marriages that break down — sadly, the Family Court is so busy because of that — are situations to which we need to open our minds.

We need to broaden our view, which this bill allows for. I was a single mother while raising three children, and I do not think my family was any less a family because it did not have a live-in male person called a husband. I do not think that is a sustainable argument anywhere, any time. I married the man I love on St Patrick's Day this year. I married him because I love him, and although he will hate to read this in *Hansard*, I must say I also married him in case this bill was not passed through both houses of Parliament! If I died, I know the horrendous difficulties he would face in raising the four children we have together — my three by blood and one by heart, his three by heart and one by blood. Prejudice against gay and lesbian couples should not exist, and that should also be the case for de facto couples.

It is almost impossible to put into words how grateful I am for my mother and my stepfather, my two best friends, my current husband and the rest of Victoria that this bill is before the house. They are normal people, but they and some people they know have suffered terribly from the thoughts and actions of people who may be well meaning but are nonetheless bigots. The community cannot afford to ostracise, denigrate or damage the self-esteem of any human being. It is inappropriate, and I am grateful that this bill makes equal rights for love of equal value a reality. I commend the bill to the house.

Mrs FYFFE (Evelyn) — Our society has changed dramatically over the past 50 years, and it will continue to change and evolve so long as mankind exists. Change is good, but it can also be frightening and threatening, particularly if it takes us into areas where we have no experience.

I have referred to change, and I will try to change my practices and use this electronic device I have with me. I hope I do not delete the words I wish to quote.

An Honourable Member — Table it.

Mrs FYFFE — It is tabled! At the conference on legal recognition of same-sex partnerships held in London on 3 July 1999, Justice Michael Kirby said:

> This conference could not and would not have happened even a few years ago. The attendance of many senior judges from a number of countries would have been unthinkable. Same-sex relationships were the outward manifestation of impermissible love. Such love, or at least the physical acts that gave it expression, were criminal in many countries. If caught those involved would be heavily punished …

It was not so long ago that Oscar Wilde was sent to jail and Lord Byron went into exile because they were homosexuals. It was not so long ago that an unmarried heterosexual couple were considered as living in sin if they lived together as man and wife without the sanctity of marriage. It was not so long ago that if a Protestant married a Catholic it would cause great angst in their communities and often families were split apart because of that.

It was not so long ago that someone with a Midlands or working-class accent like mine would have been expected to have automatically gone down the pits or worked in the mill. It was not so long ago that you were refused to be allowed to rise above your station and were told things like, 'Who do you think you are, my girl? Go and work in the mill'. It was not so long ago that all those changes happened. Such changes were uncomfortable; they were uncomfortable to my parents and my relatives. Many people feel very uncomfortable about changes such as those that are happening now within relationships. I can appreciate that discomfort because when you are dealing with something that you have had no personal knowledge of or no close contact with, it is very hard to understand.

But something else had happened a reasonable time ago — 30 years ago. The Liberal Party made what was then a major and controversial decision — that homosexual acts could no longer be considered criminal. The Liberal Party led the way, as Jan Wade did with equal opportunity — and these were great steps forward for equality for the people of Victoria.

Approximately 15 years ago Joan Kirner introduced legislation that gave recognition for de facto couples — another step forward. The Liberal Party supports very strongly the principles of family, caring, nurturing and responsibility. All of us benefit from stable, long-term, committed relationships. But most of all the chief beneficiaries are children.

When the bill was introduced I was horrified by its implications. It was dragging down, to my eyes, de facto relationships; it was going to affect the rights of children — children whom every adult in this

community is duty bound to protect. That is what we are here on this earth for: reproduction to enable the ongoing of mankind. As each day passed and the bill was subjected to intense analysis and legal opinions, it became more and more obvious that the bill affected far more than a simple definition. Even the government has recognised the inadequacy of the bill.

Today the government has introduced 22 amendments; the honourable member for Gippsland West has introduced 43. That is a total of 65 amendments from the government side of the house alone.

For non-lawyers to grasp exactly what these amendments introduced today will do to the legislation is well nigh impossible, and I am not a lawyer. It means that if this bill goes through the house today it will again have to be thoroughly scrutinised before it is debated in the Legislative Council. There will have to be a full analysis of what effect the amendments have on the bill. Is this process fair to members of the community? Is it fair to the gay community? Is it fair to the members of our community who, recognising their democratic right, do not support this legislation?

It is incomprehensible to me that the Attorney-General did not take this bill away, tear it up and introduce a new bill — a simple bill that non-lawyers can understand and follow and one that actually provided what the gay community was originally asking for. As I understand it the amendments address many of the concerns raised, but they do not really satisfy my concerns about its impact on children and their rights. The shadow Attorney-General has introduced two amendments that resolve some of those concerns. Until this bill is passed and tested in the courts I will not be 100 per cent confident, and neither do I think will other people who have similar concerns.

It would have been much simpler for all of us if the Attorney-General had taken the time and accepted the advice he was given that the legislation was not right. It is another piece of flawed legislation, like the majority of the bills that come to this house via the Attorney-General.

Going back to my working-class roots in the Midlands of England, I believe it is gormless to introduce legislation that is not correct, that affects so many people in their everyday lives and that affects the aspirations and hopes of people who just want to be in loving relationships. It is gormless to have the uncertainty of the past few months and the uncertainty that will remain until the bill is assessed and analysed again before it is introduced into the Council. It is gormless to introduce it when it is so obviously flawed, and it is gormless to try to fix it with a total of 65 amendments.

Again I say the bill should have been taken away; it should have been torn up and a fresh bill introduced; one that said and did what I hoped this legislation would achieve — I say ‘hoped’ because only time will tell if all these amendments work — a bill that gave no more or less to same-sex couples than de facto couples have. I understand that is what the gay community wants: no more and no less than de facto couples. This should be a bill that does not affect the sanctity of marriage or the rights or security of any child.

I reiterate that I have no problems at all with same-sex couples having equal rights to de facto couples. I am concerned, because of the way this bill has been handled and the number of amendments that have come in today, that there may be effects on children — intentional or unintentional — and until the cases actually get before the courts we will not be sure.

This is a difficult period for people, but just because it is difficult does not mean the legislation should be hurried, inadequate or faulty. I look forward to debate on the amendments.

Mr INGRAM (Gippsland East) — The bill has raised much concern and debate across the wider community throughout Victoria over the preceding months. I should like to state from the outset my position, although it is on the record. I am sure no-one in this house condones discrimination against any sector of society. Some issues that have been raised by the gay and lesbian community are legitimate, and that is what the bill is supposedly here to address.

This bill has had a fairly rocky road into the house and in the debate that has surrounded it between a number of people, the Independent members of the house and the Liberal Party — whose position seems to have changed somewhat in the past few days.

In early discussions with the honourable member for Richmond he indicated that it would be impossible to amend the bill and allay the concerns that we and other members of the community had and to do it justice because of the bill’s complex nature and the fact that it amends more than 40 individual acts of Parliament; and any amendments put forward potentially change the meaning of another act of Parliament, which means it would be difficult to determine exactly what the amendments might do.

I find it extraordinary that a raft of amendments have been proposed today, some by the government, some by the opposition and some by my colleague the

honourable member for Gippsland West. Some of those amendments from the Liberal Party were received only just after question time today, yet honourable members must make up their minds, basically at 9 minutes to midnight, on what is an extremely complex piece of legislation.

The honourable member for Berwick has said it is extremely difficult to make the amendments required, particularly in the committee stage, when honourable members will all be trying to decide exactly what the impact of the amendments will be and which amendments will get up and which will not.

I will not be supporting the amendments proposed by the honourable member for Gippsland West, particularly as a large number are mere window dressing. Although they amend the basic objectives of the bill so they no longer have to be taken into consideration, they do not amend its core functions. Many of the amendments from all sides of the house are window dressing.

Amendment 9 proposed by the honourable member for Gippsland West raises a list of issues that should be considered in determining whether a domestic relationship exists, such as the duration of the relationship, the care and support of children, the nature and extent of common residences, and whether or not a sexual relationship exists. Most people would consider that those issues should be considered.

That is replicated through the raft of amendments proposed by the honourable member for Gippsland West, and it is particularly spelt out in the amendments to the Property Law Act. The following amendments basically say the same thing — that is:

> … any one or more of the matters referred to in section 275(2) of the Property Law Act …

In determining whether a domestic relationship exists, only one or any one of those things need be considered.

A concern I have, and I know other honourable members and members of the community share my concern, is that this bill will leave the system open to property challenges and allow the scoundrels in the community to rip it off. As I said before, some of the concerns are legitimate.

One point that needs to be made is that the legislation could have been changed by the introduction of a relatively simple and transparent amendment to include same-sex couples in the definition of 'de facto' in the various acts. Instead a raft of complex changes have been made with the aim of ending discrimination, which I am sure we all agree with — but the amendments go further than that.

As I said before, the complex nature of the bill and the number of amendments that have been circulated will be dealt with in the committee stage. It will be difficult to manage, and we do not know what the full impact of the changes will be.

During his contribution to the debate the honourable member for Melton said the government had consulted widely on the drafting of the bill. I read the list of people who were involved in the discussion paper, and it appears there were no members of the wider community. The honourable member for Mildura mentioned them all. They include the Victorian Gay and Lesbian Rights Lobby, Transgender Victoria, the Fertility Access Rights Lobby, the Equal Opportunity Commission, People Living with HIV/AIDS, and Parents, Families and Friends of Lesbians and Gays. That list does not include members of what I consider to be the wider community, from whom I am sure most honourable members have had a flood of correspondence pleading for the bill to be opposed.

The bill undermines the institutions of marriage and the family, as well as society. I refer to a flyer from the Family Council of Victoria that lists a wide range of issues because of which it believes the bill should be defeated. Its main concern is that the bill will:

> Undermine marriage by extending privileges currently enjoyed only by married heterosexual couples to homosexual and de facto couples.
>
> Undermine marriage by redefining marriage away from its unique heterosexual form to become a confusion of changes.

It is concerned about a range of issues. In bold letters at the bottom of the flyer it states:

> Our community has not been consulted.

I have been lobbied by people from both sides of the debate, as I am sure have most honourable members. I had a conversation with a gay couple from my electorate. Our discussion centred around the fact that they believed all the bill was doing was giving the same rights to the gay and lesbian community as were available to de facto couples. I told them that could have been done simply but that this bill goes a lot further. One of the things the couple told me was that they considered themselves a family. I will concede that they were a loving couple in a stable, long-term relationship.

The bill is about where society is going. The family unit is under severe threat because of the changes that are

being made. These changes are not necessarily supported by the wider community, particularly in my electorate. We need to recognise the position of the family and the married unit in society. Why does the state support the family and marriage? We have traditionally brought up and raised our children to believe in marriage.

The honourable member for Richmond corrected a quote I put out in a press release. I inadvertently misquoted a former Prime Minister who has very strong views on what a family is. I am reliably informed that the correct quotation is, 'Two blokes and a poodle a family don't make'. I thank the honourable member for correcting my mistake.

It is interesting to note that the Liberal Party proposes to support the bill. That obviously means the Victorian Liberal Party is galloping to the left of a former Labor Prime Minister. I am sure there are a lot of Liberal Party conservatives in Victoria who are adamant that their party is not accurately representing their wishes.

Honourable members interjecting.

The ACTING SPEAKER (Mr Seitz) — Order! The honourable member, without assistance.

Mr INGRAM — I believe the government could have handled the matter more honestly by introducing a relatively simple amendment to include same-sex couples in the definition of 'de facto' that applies across a range of Victorian acts. Instead the government has developed a complex raft of amendments that could have a variety of unintended implications, to the detriment of husbands and wives and their biological or adopted children. That is the reason I do not support the bill.

The ACTING SPEAKER (Mr Seitz) — Order! Before calling the next speaker I caution that there are to be no comments or outcries from the gallery; if there are, I will be required to ask the Serjeant-at-Arms to empty it. I ask those concerned to cooperate.

Ms OVERINGTON (Ballarat West) — This is another piece of legislation of the Bracks Labor government that I am proud to speak on. The Statute Law Amendment (Relationships) Bill was a pre-election commitment of the Bracks Labor government. Its purpose is to reduce discrimination against people in same-sex relationships. Things are in a very sorry state when Parliament has to consider legislation to end discrimination against couples in loving relationships. You would not think that in a democratic society in a progressive nation legislation would be needed to protect the rights of individuals in relationships.

I feel very strongly about the bill. I believe that the injustice of the past should not be tolerated. I inform the house that — shock, horror; tell the National Party! — same-sex relationships do exist outside metropolitan Melbourne.

Mr Wynne — They are everywhere.

Ms OVERINGTON — No, according to the National Party some revolution must be going on among the gays in metropolitan Melbourne. Let me assure you that I have — —

A Government Member — You mean it is not just in Fitzroy?

The ACTING SPEAKER (Mr Seitz) — Order! The honourable member for Ballarat West, without assistance.

Ms OVERINGTON — I have many gay and lesbian friends in Ballarat who have been in same-sex relationships for many long years, and I hold them dear.

Although I cannot accept some of the arguments of opposition members, I am pleased that through the course of the debate there has been agreement that they will support the bill. I was deeply offended by the comments of the Leader of the National Party, whose only excuse for not supporting the bill was that it sat outside the ritual of marriage!

I have been married for 31 years. At the time I was married I recognised that the act of marriage was extremely important to our society, and it still is extremely important to me and my dear husband. However, to suggest that any relationship that exists outside the rite of marriage should be condemned, and that it is not a safe environment in which to bring up children, is disgusting and offensive.

Mr Delahunty interjected.

Ms OVERINGTON — I hear the honourable member for Wimmera saying that the Leader of the National Party did not say that. I was in the house and the honourable member for Wimmera was not. Wait for *Hansard* tomorrow.

Given the diversities of relationships in this day and age, to claim that couples in the state of marriage have an exclusive right to bring up children in a safe and loving environment is demeaning to those in relationships outside the rite of marriage. It suggests

that people in de facto relationships, single parent families and people in same-sex relationships cannot possibly provide a loving and caring environment in which to raise children. I find that offensive and a put-down for all those in relationships other than marriage. To many marriage may be the ideal state, but to me the ideal relationship is the joining of two people in a loving and healthy relationship, regardless of their gender.

We cannot continue as a state, a society and a community to continue to discriminate against same-sex relationships. As I said before, I have some very dear friends in Ballarat who are in same-sex relationships, and one of those couples is about to retire. It has been stressful for them, because both work in positions that will provide superannuation upon retirement and they are very keen to ensure that their superannuation rights are transferable to one another. The bill will ensure that that will occur.

When another couple I know travelled overseas recently they needed to conduct some legal negotiations, but unfortunately one partner could not act for the other. One of the women within that lesbian relationship had to get her ex-husband to act as the other partner, because she did not have any legal rights within the relationship. It is outrageous that those women, who are in their late 50s, have no rights under the law. They have raised children and are pillars of our community in Ballarat, yet under the law they have no rights. That is totally unjust.

The bill provides for equal opportunity and acts against discrimination. I support the bill and recommend it to the house.

Mr PERTON (Doncaster) — I am pleased to support the position of the shadow Attorney-General on the bill and to support the principles behind it.

In his second-reading speech the Attorney-General referred to the fact that the bill's contents were based on the *Same Sex Relationships and the Law* report of the Equal Opportunity Commission. I am proud to say that my sister, Regina Perton, is a signatory to that report. She was a proud member of that commission and a proud contributor to that work. I pay tribute to the whole commission — Diane Sisely, Virginia Rogers, Michael Gorton and Daphne Milward — as well as to my sister.

I am pleased to say that I also played a role, because in November 1993 the final report of the Scrutiny of Acts and Regulations Committee entitled *Review of the Victorian Equal Opportunity Act 1984* recommended provisions to prohibit discrimination against a person on the grounds of a person's lawful sexual orientation or sexuality. Indeed, the party I belong to has a proud history of acting against areas of discrimination and prejudice. As was said earlier by the honourable member for Prahran, the Hamer government repealed the criminal provisions against homosexual acts, and it was a Liberal government that in 1995 introduced the first antidiscrimination provisions in relation to these matters.

The report of the Scrutiny of Acts and Regulations Committee was unanimous. It is worth reminding the house that the members of that committee included Louise Asher, now the Deputy Leader of the Opposition; Dr Ken Coghill, now teaching at Monash University; Monica Gould, now Leader of the Government in the upper house; Mr Ken Jasper of the National Party; the Honourable Tom Roper, a former minister; Mr Murray Thompson, the honourable member for Sandringham; the Honourable John Thwaites, now Minister for Health; and a very good friend of mine, Bruce Skeggs, who was then the upper house member for Templestowe. Many people in this house will remember Bruce as someone who served in both the lower and upper houses, and as a person who was generally seen as being conservative, if not a bit to the right of politics.

I remember as we undertook the study, he listened to stories of discrimination and other evidence and became a strong advocate for the removal of discrimination on the basis of someone's sexual preference. To me it was a great thing that this man who had seen himself as conservative if not a bit right wing became such a strong advocate after extensively studying this matter both in terms of practice — that is the terrible discrimination that was occurring — and also on the basis of principle.

My family's politics and my reason for entering Parliament is a commitment to work for human rights. I agree with the honourable member for Ballarat West; it is a sad product of history that we have to pass legislation to prohibit the sort of discrimination that has been referred to in this debate. In her excellent speech the honourable member for Evelyn referred to a fine speech by Mr Justice Kirby, someone I am proud to call a friend. The honourable member quoted the first paragraph of his speech at the Conference on Legal Recognition of Same-Sex Partnerships. By coincidence I would like to quote the last two paragraphs of his speech, which states:

> The end of unfair discrimination has not yet been achieved. Australia, like other countries, is on a journey of enlightenment. It has taken many important steps; but many

> more remain to be taken. It seems likely that progress towards the removal of discrimination which cannot be rationally justified, will continue. As a people committed to equal justice for all under the law, I have confidence that the Australian legal system, and those who make the laws in Australia, will, in due course, eradicate unfair discrimination on the basis of sexuality. The scales are dropping rapidly from our eyes. Injustice and irrational prejudice cannot survive the scrutiny of just men and women.
>
> It can only be in the interests of society to protect stable and mutually supportive relationships and mutual economic commitment. It is against society's interests to penalise, disadvantage and discourage them. Australia is accepting this truth. True, there remain stubborn opponents. Much reform remains to be done. And beyond Australia there is a world of discrimination and oppression to be shamed and cajoled into reform by Australia's just example.

My belief is that the party I belong to stands very strongly behind the principles referred to by Mr Justice Kirby.

On Monday I attended the funeral of a committed Liberal and a very good friend, Peter Nugent. Around Australia newspaper articles and documentaries paid tribute to the strength of his commitment to justice and his work against injustice. In a very evocative and strong eulogy, Petro Georgiou, the federal member for Kooyong said:

> Peter argued, and I use his words: 'Majorities of their nature have power. It is minorities who are always in danger of suffering and disadvantage.'.

That is the fundamental principle behind the bill now that it has been amended by the government, amendments by which my party stands. Minorities must be protected and accorded equal rights. This principle goes right back to the creation of the Liberal Party. Were he still serving in this house, I believe Sir Robert Menzies would have been a strong advocate for this bill, because writing in his book *Afternoon Light* he states:

> We took the name 'Liberal' because we were determined to be a progressive party, willing to make experiments, in no sense reactionary, but believing in the individual, his rights and his enterprise …

That is the principle behind the bill that both I and my party support. The belief in the rights of the individual. The principles are not just embedded in the Liberal Party but are now accepted by the Labor Party as well.

An Honourable Member — Excuse me?

Mr PERTON — You laugh, but yours was a party that was comfortable with its alliances with socialist and communist parties overseas. You have never had a great commitment to human rights.

The ACTING SPEAKER (Mr Seitz) — Order! The honourable member will address the Chair.

Mr PERTON — I received the following letter from a constituent:

> Dear Mr Perton
>
> It is my understanding that the Statute Law Amendment (Relationships) Bill is currently under review by Parliament, and I am writing to urge you to vote in favour of the amendment.
>
> I am a heterosexual in my 50s but I do however feel very strongly that the homosexuals in our community have been discriminated against for far too long, and that in these supposedly enlightened times, all members of our community should be accorded the same rights, regardless of their creed or colour or sexual orientation. To continue this discrimination in the face of the known medical fact that sexual orientation is not a matter of choice but of individual physical and mental make up smacks of bigotry of the worst kind.
>
> My daughter is currently in a de facto relationship of four years standing with the man of her choice. Her godfather, our close friend, is in a single sex relationship of 15 years standing with the man of his choice. It makes no sense to me that she has the protection of the law because her relationship has legal status and yet her godfather does not. He is an upstanding citizen, as is his partner, and they both work professionally and pay taxes, and they are not breaking the law. Why does the law then continue to ignore their right to be considered legally as a unit?

That is very rightly said.

Both sides of politics have received correspondence from both sides of the debate. I fail to understand the letters from people who call themselves Christians who urge me to defeat the bill. Typical of those letters is one that arrived in Parliament today.

It asks me to totally reject the bill and states in part :

> The bill is obscene among others for the following reasons:
>
> > Changing spouse from domestic partner devalues marriage.

The letter goes on and on in that way, but the crucial paragraph is this:

> The majority of Victorians are sick to death of minority groups railroading legislation through Parliament. Your opposition to this bill would reflect the community's total opposition to this bill and a commitment to Victorian families.

Those people constantly put the absurd proposition that protecting the rights of homosexual couples to the same level as the rights of heterosexual couples somehow diminishes the value of marriage and the protection of children. My staff and I have been staggered by the

debate. In the end I wrote back to those people and reminded them of the words of Jesus Christ, 'Love thy neighbour as thyself'.

I cannot believe that people who belong to Christian churches claim in writing about this bill and the racial vilification bill that the right to vilify people or discriminate against them is somehow urged on them by Jesus Christ. That is patently untrue, patently opposite to the Bible, and a position I reject.

Senator Robert Hill, the Leader of the Government in the Senate, put the proposition well when he said:

> I am on the record in this place as supporting the traditional family. I have expressed my concern at the degree of family and marital breakdown. I have looked at the factors causing family distress, particularly unemployment and financial difficulties, and have looked at ways in which we can support the family structure through such avenues as tax reform, support for marriage guidance, family counsellors and the like. However, I also recognise that many, through choice and no choice, do not live in a traditional family, and they are equally entitled to my respect and concern.

That is true for so many of us. My mother was widowed when I was seven. Does the fact that she worked to put me through school, or that we were not the happy family of father, mother and children, make us less of a family? Are the children who have grown up in divorced and broken homes, which many in our community and in this house have done, lesser beings and lesser citizens?

The Liberal Party stands for the individual, and it always has. Its support for the family rests on the proposition that the individual thrives best in a strong family environment. As Robert Menzies said, ours is a progressive party that recognises change. Any member of this house or the community need only look at the statistics to see the changes that have taken place. Between 1992 and 1997 the number of Australians in de facto marriages rose by 6.4 per cent, from 710 800 to 756 500. That is, three-quarters of a million Australians choose to live in de facto relationships. We as a community have to accept their decisions.

We place a premium on marriage, as the honourable members for Ballarat West and Werribee have said. I made my commitment to marriage in December last year. It is based on the proposition that making that public commitment and raising children in that sort of environment should be given value and esteem. However, the fact that other children grow up in other relationships and circumstances and that other people choose to live in other relationships and other circumstances should not be grounds for discriminating against them.

I apologise, Mr Acting Speaker, for exceeding the agreed time. I will conclude by saying that I came to politics believing in the propositions that every person deserves respect as a human being and every person deserves the protection of the law.

It is the view of the Liberal Party that the bill could have been better drafted. Indeed, in proposing amendments and accepting the amendments of the honourable member for Gippsland West, the Attorney-General has acknowledged that it could have been better drafted. The Liberal Party has proposed two additional amendments, which I hope the government will also accept so the bill can proceed in a spirit of bipartisanship. Then those who currently do not have the protection of the law, whether they be heterosexual or homosexual, will obtain greater protection.

Parliament is not here only to do the will of the majority. Our democracy is based not just on the will of the majority but on the protection of minorities. I represent a constituency that is 65 per cent non-Anglo. We have the most remarkable community, with mosques and synagogues, churches of every Christian denomination, Buddhists and — as my honourable friend from Latin America reminds me — Latin Americans. We have the most wonderful, diverse, tolerant community. Tolerance does not imply respect. I believe my community sent me to this place to ensure that the community respects each and every Victorian. My party upholds the fundamental principle of opposing in any form discrimination against any person in the community.

I support the position of the shadow Attorney-General and look forward to the passage of the legislation, including the amendments proposed not only by the government and the honourable member for Gippsland West but by the opposition, so that it can go forward in a bipartisan way and we can all be proud of the result.

Mr LENDERS (Dandenong North) — As a member of the Bracks government I support with pride the Statute Law Amendment (Relationships) Bill.

My reasons for contributing to this debate may be unusual. Before the campaign on the bill started I, like most government members, saw it as part of the Labor Party's election commitment to further removing discrimination from the Victorian statute books and giving equal rights — rights that exist for other Victorians — to people currently denied those rights because of the life choices they have made. My initial position was to not get involved in the discussion but to follow the good work of the Attorney-General

and my friend the honourable member for Richmond and others who had been advocating the legislation.

However, as the debate has gone on I have become increasingly outraged. It ought to be a lesson to some who have hysterically opposed the legislation that the effect of their campaign has produced in the community the opposite of the effect they wanted.

I proudly and unashamedly come to the chamber as a practising Catholic, and I am therefore probably in the minority. I proudly come to the debate as someone who is in touch with my electorate and who has spoken to many people. Other than one fairly unsatisfactory harangue I received from a number of people from outside my electorate who were opposed to the legislation, I have had nothing but support in my electorate for it. The bill deals with equal rights and adjusts an existing wrong.

I turn to some of the points raised in the campaign against the bill. As a practising Catholic I find it unbelievably offensive to have bigoted people preaching to me and threatening to pray for me if I vote for the bill. I believe in this day and age if anyone needs to pray, they can do it for themselves; those who do not wish to be prayed at should be left alone. I say to the people from outside my electorate — from Mooroolbark, Blackburn, Geelong or other places — who had the audacity to write to me and tell me they are praying for me so I can make the right decision on the bill, that their actions are completely counterproductive.

Alarmingly, I find myself echoing the words of the honourable member for Doncaster with regard to the unbelievable inconsistency in some of the debate today. There are people who in one breath will argue why the bill should be opposed, because somehow or other it is the role of the state to stick its nose in and interfere in human relationships, and then in the next breath say we should oppose the racial and religious tolerance bill for the reverse argument. If we are having an open debate we need to address some of these key issues.

Ultimately the separation of church and state and the enshrinement in legislation of equal rights for people in this state must be paramount issues that everybody in the chamber can agree on. I was not going to enter the debate, but the campaign of opposition to the legislation has been totally counterproductive because it has galvanised me to go out and about and spruik for the legislation whereas previously I would have passively supported it in the chamber.

The bill is a logical progression from other progressive legislation introduced under the Hamer, Cain and Bracks governments, including the Equal Opportunity Act, and follows logically from the report of some years ago on same-sex relationships and the law. We need to deal with these important issues.

The final comment I make is about what we should do as members of Parliament. We need to grapple with the issues of the day, regardless of whether they are electorally popular. There are times when we have to, firstly, put convictions into play, and secondly, dare to legislate. The bill has been on the table and out for consultation for some time and we need to dare to legislate. If as a consequence of doing so we get a plethora of amendments — government, Independent, opposition or Callithumpian — it does not matter. We need to dare to legislate. If in that process we do not come up with a logical conclusion in dealing with the amendments here or in the other place but legislate nevertheless and the legislation does not work, the Law Reform Commission or the government will bring it back.

If issues and grievances need to be addressed we need to be mature enough to move on them and move forward. If people come to us later and say that further technical amendments are necessary, they can be considered at that stage. It is cowardly to say, ‘Do not legislate because it is overly technical or complex’. We need to address the issues.

I wish the bill a speedy passage. I congratulate the Attorney-General and the honourable member for Richmond for pursuing the legislation. It is for a good cause and it should be supported.

Mr CLARK (Box Hill) — I am pleased to have the opportunity to join in the debate on the bill. The bill has been significantly improved by the work of the honourable member for Berwick and the stand he and other opposition members have taken with regard to it has been vindicated by the amendments that have been accepted or will be moved by the government. However, notwithstanding the significant improvements, I cannot support the bill.

I am fortunate to be a member of a party that accords its members the human right of freedom of conscience, something the Labor Party accords to its members in only a few limited cases. If a government member were to vote against the bill, he or she would be automatically expelled from their party. The Liberal Party respects freedom of conscience and religion for both backbenchers and shadow cabinet members, and

recognises that the party is strengthened rather than weakened by so doing.

I cannot support the bill, even with the proposed amendments, for several reasons. The first is that it sends the wrong social message by eroding most of the distinctions between marriage and de facto marriage on the one hand and short-term relationships with no commitment to permanence or continuity on the other. The second reason is the direct damage that the bill may do to long-term partners and children of long-term relationships through the reallocation of limited amounts of benefits towards short-term relationships, whether they be homosexual or heterosexual. The third reason is the potential in many contexts for uncertainty, delay and cost, and ultimately in one context, even the potential to put lives at risk.

The bill's potential for harm is particularly towards women and children. It can end up favouring short-term relationships and disadvantaging people who have been in long-term relationships. In particular, it may disadvantage those who are left to care for children after their partner has started another relationship. Even with the amendments proposed by the honourable member for Gippsland West, it shifts the concept of relationships away from the long term and towards the here and now. By undermining the recognition of and support for long-term stable relationships, it has the potential for and creates the risk of hurting those who most need those relationships — namely, the children born of relationships.

The bill also has the potential to be economically regressive by tending to favour the well off and transfer resources away from the less well off, particularly away from women who are trying to raise children alone after their partner has left them for another relationship or whose partner has covertly been having another concurrent relationship.

Public discussion of the bill and the attention of its advocates has focused on same-sex relationships. However, the bill also makes major changes to the law relating to heterosexual relationships. It therefore affects not only those who are in or may form homosexual relationships but the entire community. The harm the bill risks doing to long-term relationships, and in particular to women and children, occurs whether or not the relationships involved are homosexual or heterosexual. Indeed, the potential for harm to children arises predominantly in the case where one heterosexual relationship is replaced by another heterosexual relationship.

In assessing the bill it is important to go back to first principles and ask why society recognises and accords special status to marriage and de facto marriage in the first place. Why do we not simply treat adult individuals as adult individuals and leave such relationships between them purely to the private realm? Why do we have laws that accord special status to marriage or de facto marriage with regard to property and compensation rights on the breaking up of relationships, on death, with regard to the power we give to partners over each other's medical treatment and medical records or with regard to tax concessions? It is not because of some historical accident or outdated moral view. It is because of the contribution of these relationships to people's well being, both individually and collectively, and in particular to the upbringing of children. At the community level it is the best way of ensuring the survival of the species or of a society. At the individual level it is the best way of providing a happy, secure and fulfilling upbringing to children.

The key objection to the legislation is that it has the potential to cause harm to children. It sends completely the wrong signals. It carries the implication that it is an equally valid lifestyle choice for mum to have a series of consecutive boyfriends or girlfriends as it is to have a stable, committed long-term relationship with the father of her children. It is the kids who suffer when they are not brought up in such a stable and committed long-term relationship.

Most people instinctively recognise that the best environment for the bringing up of children is in a happy home with their biological mothers and fathers. We can have enormous admiration for the single parent who with great effort and sacrifice successfully brings up children alone after losing a partner through death or breakdown of a relationship. We are happy for the children who find themselves with a loving step-parent after losing their mother or father. Nonetheless, if it can be achieved, enormous benefits derive for children if they can be brought up by their own mothers and fathers.

Many factors outside the control of law-makers can and do contribute to family breakdown, but the legislative choices made in the Parliament should not add a further burden. As I said, when relationships are undermined the main potential losers are children. The growing weight of scientific and sociological evidence confirms the longstanding wisdom that if possible children are best reared by their biological fathers and mothers.

The evidence also indicates that children are better off if they have a male and a female role model. They greatly benefit from the security of a stable relationship

between their parents, and the risk of harm to them increases dramatically when other males, particularly casual boyfriends enter the lives of their mothers. If there is no stable and continuous relationship in the home it is the kids who suffer. All the social indicators confirm the nexus with drugs, poor academic performance, lack of self-esteem, suicide, delinquency, homelessness and crime.

Legislation that passes through Parliament that makes it harder for children to be brought up in a stable relationship or makes life harder for children who lose a parent, and which carries the risk of detracting from the benefits, supports and assistance that society has traditionally given to such relationships, is contrary to the public interest.

I expect that many honourable members would agree with what I have said about the importance of children being raised by their parents but would disagree that the bill as proposed to be amended will adversely affect family relationships in which children are reared. That is the crucial issue and one to which all honourable members as individuals need to apply their skill, experience and judgment in assessing this question. I have reached a conclusion on this issue contrary to those of many honourable members, and I have a duty as a member of this house to say why.

The bill and the amendments propose definitions of 'domestic relationship' that in almost every context remove the notions of continuity and stability and replace them with definitions which, at best, make continuity and stability merely one or two of a long list of factors to be considered in deciding whether or not a domestic partnership exists.

I have already referred to the reasons for my belief that this will do serious damage to society simply by the generalised message that it sends. I also believe the bill creates the risk of doing specific damage in particular contexts, and I now turn to those.

The bill uses two distinct definitions of 'domestic partner', which might be called the narrow definition and the broad definition. The narrow definition refers to a domestic partner of a person as a person to whom the person is not married but with whom the person is living as a couple on a genuine domestic basis irrespective of gender.

The broader definition defines domestic partner of a person as an adult person to whom the person is not married but with whom the person is in a relationship in which one or each of them provides personal or financial commitment and support of a domestic nature for the material benefit of the other irrespective of their genders and whether or not they are living under the same roof. It goes on to make some exceptions in relation to fee and reward and providing services on behalf of another person or organisation.

The honourable member for Gippsland West has proposed a series of amendments that seek to clarify the meaning of domestic partnership and domestic partner and to insert those amendments to govern the interpretation of both the narrow and broad definitions. In some contexts those amendments clearly are an improvement. However, in other contexts they may not be because the reference to the nature and extent of common residence is proposed simply as one among a number of factors to be taken into account in determining whether a domestic relationship exists.

The fear is that that has the potential to place it in conflict with the main words of the narrow definition of domestic relationship — that is, living as a couple on a genuine domestic basis. All honourable members recognise that people can still be living as couples even though they are separated for long periods because of illness, employment, travelling interstate or overseas or other reasons that do not detract from their commitment to each other. As the Attorney-General said in his second-reading speech, that is already accommodated in the narrow definition of the bill as it stands.

However, the fear is that the amendments proposed by the honourable member for Gippsland West may allow for concurrent relationships or what might otherwise be referred to as affairs to be taken as being domestic partnerships, whereas perhaps they would not be under the provisions as set out in the bill. The question must be asked whether that would be so if the affair was ongoing, if there were a sharing of property between the partners, and particularly if one or other party has told the other that they intended to leave their existing spouse or partner. The potential exists for those factors to tilt the balance in favour of holding that there is a domestic partnership.

In the case of workers compensation and transport accident legislation the proposed amendments will potentially add a problem to an existing problem by allowing short-term partners and possibly concurrent short-term partners to take benefits that would otherwise go to a wife and children.

In relation to superannuation there is no existing requirement of permanence, but present legislation requires parties to live together as husband and wife. The proposed legislation might treat as a domestic partner someone with whom the father, for example,

has been having an affair on the side and has promised to leave mum and the kids to live with her.

Honourable members interjecting.

The ACTING SPEAKER (Mrs Peulich) — Order! The calling out across the chamber is distracting to the speaker on his feet. I ask honourable members to desist from doing so.

Mr CLARK — Thus there is a potential, if the trustees or board of the relevant superannuation fund decides to award a share of that superannuation payment on the death of the person concerned to the new partner, that the surviving spouse and the kids may well miss out.

I will briefly refer to another problem with the bill in addition to the risk it raises in relation to long-term relationships and children — that is, the uncertainty about who will have the right to make various decisions in various circumstances, in particular guardianship decisions on medical treatment. The stand taken by the opposition has been successful in removing some of the more gross absurdities in this area. For instance, a maiden aunt living upstairs or the adult children living at home will no longer be domestic partners, as they would have been under the bill as it was introduced. However, a significant residual problem remains.

At present a de facto spouse can authorise or decline to authorise medical treatment. Now who can? Is it a steady boyfriend, girlfriend or fiancé? We do not know for sure. The balance is probably against the steady boyfriend and girlfriend, but a fiancé would probably fall under the definitions.

This involves both the policy questions as to whether this is a good thing and the fact that these decisions arise in situations where someone may well be lying gravely ill and a medical practitioner is seeking a decision as to whether or not treatment is going to be authorised. Will the fiancé, the parents or someone else make that decision? If there is no clarity in that, there is a risk that the doctor is going to have difficulty in obtaining a consent. Issues also arise in the consent to organ donation under the Human Tissue Act.

For all of those reasons I cannot support the bill. That does not mean I do not agree that there are areas in which the law could usefully be improved.

I was pleased to support the Kennett government's amendments to the Administration and Probate Act to allow a wider range of claimants to seek a proper allocation from wills, based on the criterion relevant to that issue, namely whether the relationship between the claimant and the deceased was such that proper provision should have been made for the claimant. A similar approach may be appropriate on the break-up of a whole range of domestic relationships, whether sexual or otherwise, where the parties have proceeded on the assumption of a mutual sharing of resources and have not made explicit arrangements about sharing.

Where other instances of alleged injustice are raised they also ought to be looked at on their merits, bearing in mind the underlying rationale for the law concerned and the workability, fairness and social impact of possible changes. However, those are all matters for another day.

For the reasons I have given I believe the legislation before us remains seriously flawed and I cannot support it.

Ms ALLEN (Benalla) — It is with sincere compassion that I rise to speak on the Statute Law Amendment (Relationships) Bill.

In 2001 one would not only hope but expect that discrimination in all walks of life would surely be eliminated. This bill is a major step towards encouraging society to accept everyone for who they are, regardless of sexual orientation.

In this city of Melbourne, and in many regional and country towns across Victoria, there are many same-sex couples living in committed, loving relationships. They are people just like everyone else in society who are in businesses or work for other people, and they contribute to their communities in a proactive way. Their degree of mutual commitment to each other is no more or no less different from that of those in heterosexual relationships. Indeed, in many of these cases the degree of loving commitment is greater.

Those who oppose this bill cite as their reason for doing so that they believe it will diminish and undermine the sanctity of marriage. Domestic violence in heterosexual de facto relationships and marriages does far more to undermine and diminish the sanctity of marriage than a loving, caring relationship between two people of the same sex. Emotional abuse in heterosexual relationships again undermines the true beliefs and ideals behind marriage.

The bill adopts the new term 'domestic partner', clearly identifying those who live together as a couple as two people living together but not married. Many heterosexual people live together who are not married and are recognised under the law as de facto couples. They are obviously doing so because (a) they love each other, (b) they are committed to each other, and (c) they

do not see the need for a marriage certificate to bind together their love and commitment to each other. In doing so, are they undermining the sanctity of marriage? The law does not seem to think so.

Why then should the law discriminate against same-sex couples who are simply getting on with their lives under the circumstances that they, as consenting adults, have chosen? They are not hurting anyone. Why is it anyone else's business to dictate how another should live and subsequently distribute their superannuation, assets and belongings after a long, loving commitment?

The National Party in opposing this bill is attempting to take society back to the 18th century — or has the party always been there? The Leader of the National Party stated that children need to live in a home where the parental relationship is heterosexual. The fundamental need of a child, regardless of parental status, is love. In many dysfunctional heterosexual families love is the last thing that exists. How does the Leader of the National Party feel about the fact that in some heterosexual de facto relationships and marriages physical and emotional abuse is rife and is suffered by partners and children alike?

In the majority of cases the physical and emotional abuse is male against female. Does that constitute a good marriage? I do not think so, and I doubt the children of such a marriage would agree either. Many children of such marriages suffer emotional problems into their adulthood which affect their personal relationships.

Also, in society we often see old men marrying young women. We may well be critical, amused or even feign shock but we accept it regardless. Why? Simply because of the fact that it is male and female. Society is far more judgmental, of course, if an older woman marries a younger man. The furrows on the brows of society would deepen considerably as the prim and proper gossips whisper behind hand-covered mouths. Mind you, I often wonder if the judgments of those gossips are made out of discrimination or pure envy. We still accept the choices those people have made and their choices are legal.

The bill is about equality; it is about breaking down the discrimination in society and breaking down the fear, paranoia and the single-minded bias many members of society have, including the members of the National Party. The bill is about fairness: it is about everyone in society sharing in the rights that are due to and rightly deserved by all members of the community. It is not anyone else's right to deny that fairness to another person.

We are talking about loving, committed partnerships, about couples who live and work in our communities. They are people who pay taxes and contribute to society in a positive manner be it through their businesses, employment or community work. They deserve the same rights as everyone else in society and it is not for those who are discriminative to deny them those rights.

I congratulate the Attorney-General for his foresight and courage in introducing the bill, and my fellow members of Parliament for their compassion and understanding in supporting it. I commend the bill to the house.

Mr JASPER (Murray Valley) — I support the Leader of the National Party in his opposition to the bill before the Parliament. I have listened with great interest to the contributions of members from both sides of the house and, in particular, the contribution just made by the honourable member for Benalla when she attacked the National Party. I say to the honourable member that while representing Murray Valley for over 20 years I have responded to the people of my electorate, and that is what I have done with the legislation — that is, I have sought the views of the people of my electorate.

I listened also to the views of the honourable member for Doncaster and wrote down his words. He said we are not here to do the will of the majority. I suggest to the honourable member for Doncaster that if he does not do the will of the majority the Liberal Party will never get back into government in Victoria. I suggest it is the majority of people who elect governments, and if we were take his view on board — that we do not listen to the majority but listen to minorities all the time — that would be one way for a government to lose office.

I also listened to the contribution from the honourable member for Box Hill, whom I thought put it very well. I listened to his sincerity in supporting the family as the cornerstone of society. That is how the legislation should be looked at. I reaffirm that marriage and the traditional family are the cornerstone of a strong and stable society. As a family man I put a high value on the family and marriage as the basis of that society. Over many years we have seen legislation introduced which drags down society and extends what the general society does not want to accept but is forced to accept, and the majority are in that situation.

Over many years we have seen legislation which has been brought before the Parliament which breaks down the family as the cornerstone of our society for our morals, values and integrity.

Over a long time there has been pressure from many groups seeking acceptance of other lifestyles and diminishing the importance of the stable and normal family environment in meeting the challenges of society.

I do not support the legislation, which will amend approximately 44 acts of Parliament to give greater legal recognition to de facto and same-sex relationships. Other legal avenues could be taken by people who wish to live in alternative arrangements to ensure that de facto and same-sex partners are protected and not discriminated against.

Reference has been made to the fact that I was on the Legal and Constitutional Committee when the Equal Opportunity Act was reviewed in 1994 and generally supported the recommendations made in that report. The recommendations were looking to break down discrimination wherever that might be. We do not need discrimination in society but we do need values, and those values are found in normal, family relationships.

The Drugs and Crime Prevention Committee has undertaken extensive investigations into crime, drugs and drunkenness throughout Victoria and Australia and will go further. One person who came before the committee spoke about the increasing crime rate in Victoria and the increasing use of drugs. He referred to a paper he recently presented as a professor in the United States and in Australia in which he made the comment that children being brought up in normal, family relationships to about the age of eight or beyond will normally not get involved in drugs. He found the majority of people getting involved with drugs were those who came from broken homes, broken marriages and unstable home lives. I repeat: he said that where a child is brought up in a normal family relationship and background and a normal marriage that person would not get involved with drugs and crime.

That is an important point. I queried him specifically on this issue, and he said that was not to say that people brought up in normal family relationships would not go off the track and become involved in crime or drug usage, but the statistics show that it is less likely.

As I said earlier, when legislation comes before Parliament I usually seek the views of the people in my electorate of Murray Valley. I have received only one letter supporting this bill, but I have received at least 100 letters opposing it. Many representations were made to me by people who came to my electorate office at Wangaratta or contacted me by telephone indicating their strong opposition to the bill. I will quote from two of the letters I received, the first being from a gentleman who lives in Edwards Street:

> The first concern I have is the Statute Law Amendment (Relationship) Bill 2000. I have looked at the bill on the Victorian Parliament's web site. I have some serious reservations about this bill. I was staggered to find that the state government wishes to include in many existing acts of Parliament the definition 'domestic partner — a person to whom the person is not married but with whom the person is living as a couple on a genuine domestic basis (irrespective of gender)'.
>
> I wish to record my opposition to this change. If I were given a chance to vote, I would vote 'no'. I doubt whether many people realise that a bill like this, with so many implications, is being considered.
>
> I am concerned that with so many acts of Parliament being amended at once that there could easily be some unintended consequences. I cannot accept that the designation 'domestic partner' is a suitable replacement for 'spouse'. In my opinion the effect of this is to undermine the family as the basic unit of society and to undermine marriage. I concede that many marriages end in separation and divorce but the fact remains that people entering into marriage do so in a way which seals their commitment to one another in a covenant relationship. This is most certainly not the same as living with a person on a genuine domestic basis. The change in the wording 'matrimonial home' to 'shared home' is also a massive shift in emphasis that causes me grief.

That letter highlights one person's concern and typifies many of the comments in other letters I have received. Another person living in my electorate writes:

> 1. It seems that in a range of spouse-support situations, the intention is to exchange 'spouse' for 'domestic partner', irrespective of gender. Thus those practising homosexual lifestyles (less than 2 per cent of population) and in temporary relationships … are to be granted financial benefits equating with married couples who have taken full-life commitment.
>
> 2. It undermines
>
> (a) spouses …
>
> (b) marriage …
>
> (c) families …
>
> (d) children …
>
> All governments and political parties ought to be seeking ways to support and strengthen marriage and the family as the basic unit of any healthy society.

I have quoted from those two letters because they are typical of the mass of letters I have received from constituents in my electorate. I repeat: all the representations I received by way of letter, telephone calls and people coming to my electorate office bar one expressed opposition to the bill. I suggest to the honourable member for Doncaster that we need to respond to the people we represent. If he does not respond to the people of the Doncaster electorate they

may think again at the next election. I also suggest to all honourable members that we should represent the people of our electorates and listen to them in deciding what we need to do. If the government does not respond to the majority it will find itself out of office.

The comments made by the honourable member for Box Hill supporting normal family relationships were pertinent. Pressures will be brought to bear by this bill because it is fundamentally flawed. I repeat, we should be seeking to maintain the sanctity of marriage and stable and committed family relationships. I recognise that there are single-parent families. I have listened to comments made by other honourable members from single-parent families, and I do not deny there are success stories, but the bill goes too far in recognising other forms of relationships.

The bill detracts from the accepted heterosexual family relationship and seeks to legitimise other family arrangements. I repeat: the family unit is the mainstay of our society. The National Party is opposed to the bill before the Parliament.

Mr ASHLEY (Bayswater) — I am pleased to join the debate on the Statute Law Amendment (Relationships) Bill. I am sorry to have to part company with the previous two speakers, but I do so because I believe this bill in its own faltering way, like many human efforts and human documents, is about righting wrongs. It is about de-vilifying aspects of human existence and overcoming the demonisation of minority status relationships — in this case, same-sex relationships.

Four words come to mind when I think about our society: order, emotion, choice and responsibility. Great effort is made to ensure that societies are ordered and orderly so as to give them meaning. In emphasising order it is easy for a society to quickly banish to the fringes those forms of relationships it does not like — usually minority relationships that are seen to be for whatever reason dangerous and in some way undermining that society.

In that regard I pick up comments made by the honourable member for Doncaster, because I do not think he was referring in broad terms to majorities and not wanting the support of majorities. He was referring to the situations of minority groups and how they are treated by majorities. In those terms we must support minorities; we must give them a fair crack of the whip, give them recognition and not turn away from the pain and distress they frequently feel at being banished to the nether world, the darkened shadow on the edge of society where many groups have lived for generations.

The word ‘emotion’ comes to mind because, despite order, when it comes to the way we meet and interact with one another emotion takes over and we fall in love with the most unlikely people — at least, that is what others think. But from our point of view that is the most likely person, and that most likely person fits our needs, although that same person may not fit any other person’s need during the rest of our lifetime. In recognising the uncontrollability of emotion we come up against the difficulties of dealing with order. Emotion must be respected and given its place; it must not be treated as something that only those in the majority can rightly possess.

I come back to the issue that out of our emotion we prefer certain things and we choose certain ways of life. We choose a lifestyle that is befitting what we are inside, and if we do not allow what we are inside to come out and be taken seriously we are in the midst of either destroying ourselves or being destroyed by others. Responsibility has to do both with those who engage in relationships — whatever our relationships may be they must be built around responsibility — and with society’s reaction to the legitimacy of our particular individual relationships. Society should be responsible towards us and treat us responsibly as individual couples.

Because this bill has been revisited in the period between the making of the second-reading speech and now, I no longer have the problem that I had beforehand. My problem was that the definition of the term ‘domestic partner’ was so open and loose that it allowed open slather. In its original conceptualisation it opened up all sorts of vistas for the kinds of fragmentary relationships that, from what has been said tonight, none of us would in any way support. Indeed, one of the reasons I conscientiously could not have supported the bill in its original form was that I thought it was demeaning and trivialising genuine same-sex relationships that were loving and committed.

For those reasons I am glad the Attorney-General was prepared to revisit it — that he was big enough to own up to the fact that the bill did have weaknesses and buttressed it with amendments.

The amendments proposed by the honourable member for Gippsland West will also put some strength into underpinning the notion of what a couple is. She is saying that in dealing with what a relationship is, we should give cognisance to the duration of the relationship; the nature and extent of common residence; whether or not a sexual relationship exists; the degree of financial dependence or financial interdependence and any arrangements for financial

support between the parties; the ownership, use and acquisition of property; the degree of mutual commitment to a shared life; the care and support of children; and the reputation and public aspects of the relationship. I do not think that by doing that the honourable member for Gippsland West or anyone else is pretending that that makes a same-sex relationship equivalent to marriage, but it does put up a new benchmark for testing not only same-sex but also de facto relationships.

In an article in the *Age* in the middle of last year, Bettina Arndt referred to research that showed that relationships outside marriage involving cohabitation were frequently unstable; that the children in many of those relationships spent long periods in single-parent families supported by welfare; and that cohabitations involving children break up at four or five times the rate of marriages, and the separations typically involve far younger children. The evidence is that compared with the offspring of married couples these children miss out on education achievement, on mental health, on parental supervision and support and on the economic security that improves the life chances of children.

I could go on with that, but I shall not do so. Suffice it to say that the issue we are dealing with frequently has to do not so much with the nature of the relationship but with the breakdown and the consequences of the breakdown of the relationship. It might well be said that the Family Court is in many ways the family break-up court. There are problems both at the de facto end and the marriage end, given that marriage is the high watermark of relationships in our society. There are difficulties at all points, but it is not so much a lauding of the status of one or the other we are dealing with here, and I think that is where some people have been misled. Frequently we are dealing with the consequences of the breakdown of those relationships.

There is no point in hurling the virtues of marriage or de facto relationships at those for whom such relationships have broken down. The issue here is picking up the pieces and how best to do that. Surely the best way is to treat all people and all relationships with a fair degree of equivalence in dealing with the consequences of break-ups — that is, in dealing with break-ups that cause same-sex couples the kind of heartbreak and heartache break-ups cause the rest of us, whether it be over the splitting up of property, superannuation or the other things.

Other honourable members have been personal, and I also want to be personal in bringing my contribution to an end. On 15 July 1985 I met my late wife, Linda. On 15 November 1985 I went out with her for the first time. On 15 November 1986 we were married. On 15 November 1989 I sat with her when we got the final results of her chemotherapy. I was with her when the news came through that the chemotherapy had failed. She died on 31 March 1990. In the span of my life I knew her for less than five years or thereabouts. We were married for just over three years.

In the context of many of the things we have been talking about tonight that would amount to a short-term relationship, but no-one challenged me for the right to receive from Linda what her wishes were for me in relation to her car, her death benefits or the house that we had bought, as was right and proper. How then could I say in all honesty and with any integrity to one of her brothers who is gay and whose relationship went for longer than Linda and I had known one another, 'I would deprive you of that. I would deprive you of those same things that she wanted me to have'. She launched me into my future with love and care by relinquishing to me what she was and all she had.

That is what so many people in gay relationships are having to struggle with. In 1994–95 I chaired the palliative care task force for the then Minister for Aged Care, the Honourable Rob Knowles. During that time I heard of many cases of young men being deprived of seeing their gay partners, those they loved, in hospital because the families overrode the rights of those young men to see their loved ones or the hospital would not recognise their rights to see their loved ones. What is that if it is not systemic discrimination? What is that if it is not institutionalised discrimination?

I heard of cases where upon death the bodies of their loved ones were literally ripped away from those young men, and in some instances they were not even told where the funerals were to take place. The families were perpetuating a lie. They were taking back their young sons and pretending they were not gay, pretending they were not the people they really were inside. And the people they were inside cried in death because their partners were deprived of what Linda, in my married relationship, was able to contribute to me — her affection until the end.

I will leave it on that score. Unless we overcome our tendency to diminish the relationships of those we may not like or understand, and unless we stop scorning and belittling them, shutting them out, and negating, punishing and treating them as relationships non grata, we will be perpetuating a lie on ourselves and our community and depriving ourselves of the enrichment those people in their relationships can offer us. We should say, 'We accept and acknowledge what you are, and we will treat you with loving kindness and

courtesy'. In the final analysis, that is where we are going with the bill.

Honourable Members — Hear, hear!

Mr THWAITES (Minister for Health) — I commence by congratulating the honourable member for Bayswater on an outstanding contribution. It was both moving and compelling, and highlighted an issue that is particularly important — that is, the human aspect of the decisions people make about their partners. That is what the bill is all about.

In presenting its report the Equal Opportunity Commission commenced its introduction by saying:

> Choice of partner is one of the most personal and emotional decisions of a person's life. For some people, personal choices of this nature are hindered by our laws.

The Equal Opportunity Commission recognised that people are being hindered by our laws in their choice of partners. They are not interfering with or adversely affecting anyone else. It is simply a matter of their life choice.

In his contribution the honourable member for Murray Valley read a letter. There are always criticisms of people's different ways of life. Let us examine the effect of our current laws on people who are going about their life in normal ways. I cite a tragic case that was referred to me involving the Transport Accident Commission. The person believed that as their partner had been injured in an accident they would be entitled to some sort of compensation because of the relationship between them. However, because of the unfair discrimination of our laws that did not apply. Similarly, we all accept that superannuation is fundamental to our future security. Yet a homosexual partner is not entitled to the benefit of their partner's superannuation.

I am pleased that the legislation will change that so far as it can. Unfortunately, the majority of superannuation regulation is done at the commonwealth level, and we still do not have a national government that is prepared to accept major reform to superannuation laws.

I am pleased that the Attorney-General has introduced the legislation and I personally congratulate him on doing so. It is almost two years since I sought to move a private member's bill in similar terms. Unfortunately I was not granted leave to do so. I know there are members opposite who wished to support that bill. This legislation would not have been introduced were it not for a Labor government.

The reforms introduced by the Attorney-General have been made in consultation with the community. An expert advisory group on gay, lesbian and transgender issues has advised him and made recommendations in a number of areas. I am pleased to have such an advisory group in the health area as there are major health issues involved, including youth suicide, which particularly affects young people who are gay or lesbian. That is an area to which I want to make a real difference and real improvements as health minister.

I do not intend to speak for long, but I am pleased that the legislation is likely to pass through the Parliament. I am concerned about the amendment proposed by the opposition concerning the Administration and Probate Act. The point the honourable member for Bayswater made is relevant to that. The nature of people's relationships has to be looked at. The situation envisaged by that amendment involves someone who may have had a short-term marriage — they may have been married for only one or two years — and then may be in a 15-year or 16-year relationship with a same-sex partner. That same-sex partner would be completely unentitled to any inheritance if the person were to die intestate. That is blatantly discriminatory and unfair.

The bill is reasonable because it provides for only a division of the partner's share. The children are protected. If someone has been in a relationship for more than five years, it is appropriate that that person be the partner who is able to inherit on intestacy. Wives in that situation are entitled to make claims under the Administration and Probate Act. They have that entitlement if they have children. We are talking about the choice of a partner, on which the legislation provides a sensible balance.

I will thank a few people who assisted me at the time of drafting the original private member's bill, although I will probably forget some of them. I would like to put my thanks on record because they would be very pleased that, now we are in government, we have been able to implement this legislation. Those people are: Helen Grutzner, who assisted in drafting the bill; John Daye; Janet Jukes; Jamie Gardiner and Joseph O'Reilly.

The ACTING SPEAKER (Mr Savage) — Order! The time has arrived for me to interrupt business under sessional orders.

Sitting continued on motion of Mr HULLS (Attorney-General).

Mr THWAITES (Minister for Health) — Finally, I acknowledge in particular the contribution of Peter

Edmonds, who was one of my advisers in opposition and is now with me in government. He played a major role in ensuring that the issue was on our agenda when we were in opposition, and now we are in government he has assisted in ensuring that the proposed legislation can be put through the Parliament.

Mr MAUGHAN (Rodney) — I rise to contribute to the debate on this very important bill. I note with some pride and interest that the debate has been a very reasonable one, with sincere contributions being made by people on both sides of the house. I respect that sincerity.

I am vigorously opposed to any sort of discrimination, but I cannot bring myself to support the bill because it involves competing principles. The principle I hold most dear, as does the National Party, is that the family is the building block of society and that anything that weakens the family weakens our society. While in some respects I have a great deal of sympathy with the thrust of the bill, I will be opposing it because I sincerely believe it weakens the family and the institution of marriage, which are fundamental to any civilised society.

It is not just an empty platitude to say that every child is entitled to at least commence his or her life as the product of a loving heterosexual relationship. There is absolutely no doubt that a child's best interests are served by growing up — at least for the first five or six very important formative years — with the love, affection and guidance of both biological parents.

Many of the increasing social problems that we are finding it very difficult to deal with as a community, including child abuse, drug and alcohol abuse, youth suicide and antisocial behaviour — one could go on and on — are caused at least in part by poor parenting and by the break-up of traditional family relationships. I am opposed to the proposed legislation, as is the National Party, because in essence it gives equal recognition to de facto and same-sex couples as it does to married couples.

The National Party's main core value is that the family is the basis of a strong and stable society, and therefore as National Party members we sincerely believe that anything that weakens the stability of the traditional family unit weakens our society generally and should therefore be opposed. On that principle I will be opposing the bill.

Although there is controversy about the issue and the evidence is not clear, I believe that a small proportion of the population — I do not know what the percentage is — are born homosexual and have no more control over that than we do over the colour of our eyes or the colour of the skin we are born with. I accept that some people are born homosexual, and I have a great deal of sympathy for those people.

If homosexuality is not genetic, for some people it is at the very least a direct consequence of their early upbringing and therefore something over which they as individuals have very little control, if any. I have a great deal of sympathy for those people also, but I stress that they are a small proportion of the population. However, I believe that the vast majority of same-sex couples have deliberately chosen same-sex relationships. It is a conscious choice for them, and many are promiscuous as they are not in long-term relationships and have multiple partners.

In case I am accused of being right-wing and of simply mouthing a lot of right-wing platitudes, I quote from the Melbourne gay community's periodic survey of February 2000, which found that 60 per cent of homosexual men admitted to having casual sex; that 70 per cent admitted to having sexual contact with sexual partners in the previous six months; that 73 per cent had had more than one partner in the previous six months; and that less than 16 per cent had had relationships that lasted longer than five years. While I have sympathy with that group of people who are born homosexual and have no control over it, and while I respect their rights, I do not have a great deal of sympathy for those who choose the homosexual lifestyle.

In his second-reading speech the minister essentially said that the main aim of the proposed legislation is to reduce discrimination against non-heterosexual couples in some areas, such as intestacy, and that the bill will also benefit heterosexual de facto couples. I note that most homosexual couples are well able to look after their legal rights, in particular their right to leave their estates as they want to. They are intelligent and sensible people and they are well able to look after those things themselves.

I also note that there is no indication of the number of people whose rights, according to those proposing the legislation, are being compromised. I am not prepared to compromise the important principles of the sanctity of the family and the sanctity of marriage in order to satisfy the needs of a relatively small group of people in the community with whom I do not have a great deal of sympathy.

The effect of the bill is to equate domestic same-sex partners with married couples in lifelong relationships; I

reject that proposition, as I do not think the two can be equated. Consenting adults can do whatever they want in the privacy of their own homes as that is their business and it is up to them, but the government equating same-sex relationships with married couples is quite another thing and will be opposed by the National Party. We believe it is sending the wrong message to young people in our community.

As I said earlier, I am opposed to any form of discrimination, as is the National Party. I note that the honourable member for Benalla took a swipe at the National Party's attitude. I make no apology for that attitude and for standing up for the rights of the family and for marriage.

The honourable member for Benalla says the bill is about fairness; the National Party says it is about the erosion of the rights of the institution of marriage and the rights of the supremacy of the family. I support the supremacy of the family and affirm my commitment to the institution of marriage and traditional family values.

The Attorney-General indicated earlier today that this is the first of further amendments. If I heard him correctly he suggested there will be another 30 or so proposed amendments to deal with in vitro fertilisation, adoption and so on. They will further extend and erode some of those rights.

The Leader of the National Party spent some time talking about the institution of marriage. He indicated that great emphasis had been placed on the institution in many cultures over many centuries. It has been an important part of the stability of many cultures over a long time and indicates how society regards marriage. One has only to look at the Marriage Act and the huge amount of legislation that deals with marriage and issues associated with it. There is a huge volume and force of legislation indicating the importance the community places generally on the institution of marriage. That is eroded at our peril, and the National Party is not prepared to do that.

Like the honourable member for Murray Valley who spoke earlier, I have been overwhelmed by the volume of mail and telephone calls that has come to my office opposing the legislation. Like the honourable member for Murray Valley, I take note of what my constituents are saying to me and that is another reason I am opposing the legislation.

I commend very warmly my friend and colleague the honourable member for Bayswater for an outstanding contribution tonight, and I also commend the honourable member for Box Hill who made a principled contribution. I agree with the views he expressed.

In conclusion, the National Party rejects the notion of domestic partner. It reaffirms its commitment to the family and marriage and takes note of the view of its constituents as expressed to it through conversations, letters and telephone calls. Members of the National Party will be voting against the bill and the amendments.

Mr LANGUILLER (Sunshine) — I very proudly support the Statute Law Amendment (Relationships) Bill which introduces the term 'domestic partner' into various acts to recognise the rights and abilities of partners in domestic relationships irrespective of the gender of each partner.

A person's partner is defined for the purpose of the bill as being a person, spouse or domestic partner. Spouse is defined as being a partner in a marriage.

I am mindful of the limited amount of time available tonight because other speakers wish to record their important views on the bill. I am similarly mindful that my primary audience is the electorate of Sunshine. It is there in the working-class Labor heartland in the western suburbs of Melbourne where I have the responsibility for advancing the agenda in the main debates pushed forward by the Bracks government.

While in many ways it is a very advanced working-class electorate, I have received many representations against the bill. Many support the bill but, similarly, many reject the proposition that everyone should be an equal before the law.

I have said to my working-class brothers and sisters that as someone who comes from the trade union movement I find it hard to understand how those who have been subjected to discrimination in various forms, whether it be economic, social or cultural, cannot understand that all the government is proposing is that everyone should be equal before the law. The bill does not say the government either condemns or condones same-sex relationships; it does not believe it is up to either the government or the state to say anything of the kind. It is up to each and every individual in society to make that decision, difficult as it is on many occasions.

It is for reformists and government to advance the agenda and to ensure that everyone is equal before the law and that human rights are adhered to according to the good traditions of our society.

I send very respectful messages to the deputations that I have received in my office. I refer to religious

deputations who came to lobby against the bill. I grew up among religious men and women. I have said it before and I say it again now: the god that I got to know among Jesuits and Salesians where I come from in Uruguay in Latin America would not condone discrimination. The one I knew would say to me that everyone should be respected irrespective of race, gender, religion or sexual preference.

To my friends from non-English-speaking-background communities, and I am one of them, I say to them that they should understand better. I give the message respectfully but firmly because we know what discrimination is and we must ensure that what occurred against us because of our background of culture, language or race is not allowed in other areas of society. Democracy is about protecting minorities. It is the responsibility of all honourable members to uphold that.

Mindful of the time restrictions I will finish by saying that I am proud to be a part of the government. I commend the Bracks government, the Attorney-General and the honourable member for Richmond for their wonderful work. They have made us all proud. I am confident that my two-and-a-half-day-old baby, Liam, and my partner, Constantina, will be proud of the society this government wishes to build into the future. I dedicate my humble contribution to them.

Mrs ELLIOTT (Mooroolbark) — I am one of those people who believe that one's sexuality is not a matter of choice, that we are born the way we are. I also believe that all people, whatever their sexual orientation, would like to be in a loving and committed relationship.

I have several friends with children who I have known and loved since they were babies and who have grown up to realise they are gay. I know that my friends, their parents, without exception wanted nothing more than that their children should be happy. They all understand that happiness involves a loving and committed relationship. Two of those children — they are now young adults — are in those sorts of relationships, and one is not yet, so far.

If we all strive towards the Platonic ideal of a relationship we should not discriminate between heterosexual and homosexual relationships, and in particular there should be no discrimination under the law. People in homosexual relationships should be able to transfer property just as people in other de facto relationships can, and if a partner has the misfortune of suffering the illness or death of the other partner, that person should have some say in medical treatment. So far that say has been denied to many people in same-sex relationships.

I have worked for several years now in the arts community in Victoria, a community that would be very much the poorer were it not for the creative drive of so many people who are gay. Many of them — not only here in Victoria but world wide — have been lost to AIDS, and the arts are the poorer for that. Many of those who have died had long-term partnerships. I hope all of them died with their partners at their sides.

I was referred to in one of the daily newspapers as 'one of the usual suspects' who would support the bill. I would not have supported it in its original form, but I support it now with the amendments proposed by the opposition. However, my support is conditional on the protection of the rights of children. The rights of children, whether they be children growing up in a heterosexual family or in a single-sex family, should in all cases be protected. I believe the opposition's amendments will ensure that that happens.

No-one in the gay community, and no-one in the public gallery this evening, would want children to be disadvantaged in any way by the passage of this bill. I, like other honourable members, have had letters from constituents and from the wider community. Many were against the principles of the bill and many were for them. I believe the bill requires honourable members to be true to what they believe in. Discrimination on the basis of same-sex relationships is certainly not on. However, I remind honourable members again that I will support the opposition's amendments, as proposed by the shadow Attorney-General.

I commend the honourable member for Bayswater for a heartfelt speech and for the way he used a personal situation to highlight how relationships can be committed over a short or long period.

The bill once amended will require that if people in same-sex relationships want the same rights as people in other relationships they should be able to demonstrate that they intend to remain in a committed relationship — just as couples in heterosexual de facto relationships are asked to demonstrate that their relationship is a committed one. Once that is demonstrated, discrimination of any kind is not justified. The bill will simply remove such forms of discrimination.

Marriage and the bringing up of children within marriage are obviously desirable ideals, but those

whose sexual orientation is not a choice and who are therefore directed towards others of the same sex should have the opportunity to enter a relationship and stay in it without suffering discrimination under the law in any matters of property or medical treatment. They should be able to offer their partners the same support heterosexual partners can offer each other.

There has been a range of speeches tonight, all coming from the heart — even those from honourable members who are opposed to the bill. The bill addresses an issue about which people feel strongly. It is impossible to represent everybody in our constituencies or in the wider community without taking a position one way or the other. The bill is one case in which honourable members must speak from principle and from what they believe in. I am one of those people who feel they would like to support the bill, and I do so.

Ms ALLAN (Bendigo East) — Like the honourable member for Mooroolbark and others who have spoken today in support of the Statute Law Amendments (Relationships) Bill, I find this a proud day. It is good to see the fine work undertaken by the Attorney-General and his parliamentary secretary towards achieving equal rights in this area.

All honourable members have their own personal beliefs, many of which we have heard expressed in debate this afternoon and this evening. However, it is important to remember that when as members we contribute to debate we are representing our electorates and all our constituents.

As the youngest member in the chamber I referred in my inaugural speech to my representation of young people in all their variety and diversity of needs and aspirations, and I welcomed that challenge. I also said in that first speech that it was important that the ranks of parliamentarians reflect the society they represent, including gay people.

Today I am proud to speak on a bill that has as its philosophy the desire for social justice and a respect for human rights. That is why we are members of Parliament — to represent all members of our community regardless of their sexuality and to uphold their rights to equality.

Previous speakers have mentioned that the issue is not confined to metropolitan Melbourne; it is an issue that is of equal importance to communities living in country Victoria. Before coming into the chamber to speak on the bill I spoke with a representative of the gay community in Bendigo. I sought his views because I thought it was important to understand how the bill will directly affect members of my local community before speaking on it in the chamber.

His comments drove home the importance of the bill and the philosophy underlying it. He told me that the most important part of the bill is that it provides certainty on the death of a loving partner. That could not have been described more eloquently or with more feeling than by the honourable member for Bayswater.

The person I spoke to also said that without the passage of the bill gay people would continue to be classified as second-class citizens, and as a member of Parliament that is something I cannot condone. The second point he made was that only good can come of the bill, and that is because the fundamental issue of equality is driving all facets of it.

On the issue of giving gay relationships legal status, the person I was speaking to told me that legitimising relationships between gay people — he particularly referred to gay men — would strengthen them and give them greater legitimacy. He said it would remove some of the stigma that surrounds gay and lesbian relationships, which makes it difficult for those people to speak to members of their families and their friends about their sexuality. I hope the bill will help to remove some of the stigma that adds to what can be difficult times for those people.

As I said, the bill impacts on all Victorians, not just those living in metropolitan Melbourne. The person I spoke to said it would provide for the greater acceptance of gay and lesbian relationships in country Victoria. Having equality before the law and equality within your own community is important, whether you live in metropolitan Melbourne or in any part of country Victoria.

In conclusion I take the opportunity to join with many other members of Parliament in commending the Attorney-General and the Parliamentary Secretary for Justice on their fine work on the bill over a number of months. I also commend the fine work of the honourable member for Gippsland West. Certainly my respect for her views and her strength of character has grown enormously as I have watched her campaign strongly on the issue.

I also commend members of the gay and lesbian community and their families and friends, who have kept the campaign going and supported each other throughout what I have no doubt have been difficult times as the debate on the bill has unfolded. For those reasons and those outlined by the many honourable

members supporting it, I am pleased to commend the bill to the house.

Mr PLOWMAN (Benambra) — I wish to speak briefly on the bill, because I would not wish to register my opposition without having first spoken on it.

Clearly the bill is an attempt to reduce discrimination in the circumstances outlined in the Statute Law Amendment (Relationships) Bill. It is about showing tolerance, and as the honourable member for Rodney suggested, it is about showing sympathy for people who are in situations they find intolerable. I suggest it is also about attempting to understand the difficulties some people face in the present circumstances. Although we wish to overcome the discrimination that that section of the community faces, I believe the bill deals with two sets of values, the other set involving the importance of the sanctity of marriage.

I believe that every time legislation of this type is debated in Parliament there is some erosion of the value of marriage. Although it has already been said, I will say it again: I believe families are the cornerstone of our community and of our society. As such marriage plays an integral part in the family situation. The debate is about relationships — heterosexual, de facto and same sex. Nobody denies that each exists and has a place in our community. However, I believe that if we are looking for criteria that determine how we should legislate in these situations, the best interests of children should be the primary consideration.

A couple of issues are worth discussing. Firstly, children who come from dysfunctional families are the children most at risk in our community. If the bill leads to a greater number of families becoming dysfunctional, I believe we are doing the wrong thing by those children.

Over dinner tonight I had an interesting talk with a friend who is a clinical psychologist about the difficulties faced by children going through different developmental stages. Obviously all age groups are affected by instability brought about by dysfunctional families. If by passing the legislation in its existing form the sanctity of marriage were denigrated in any way, I believe it would be likely to bring about an increase in the number of children who end up in dysfunctional families.

If the amendments put by the opposition are not carried, the problems associated with those families will be exacerbated. The saddest cases that come to my electorate office — I believe it may also be the case with you, Mr Acting Speaker — are the people with problems caused by judgments of the Family Court that have caused division and hatred among the former members of their families. I believe the difficulties inherent in trying to overcome the problems associated with those judgments while looking after the best interests of children are some of the most pressing we are faced with as members of Parliament. I fervently believe that if the amendments put by the opposition are not carried, the situation will be exacerbated.

I have been assured that the legislation will not pass through the upper house without the opposition's amendments being agreed to. If that is the case, the legislation will go no further if it is returned to this house until those amendments are part of it. As a consequence I will not vote against the legislation, but I certainly will not vote for it in its existing form or in the form indicated by the government amendments and the amendments proposed by the honourable member for Gippsland West.

I believe all honourable members have shown a desire to overcome the discrimination the bill attempts to overcome, but if it is passed in its present form the damage it could cause to children would far outweigh any benefits. Therefore I cannot support the bill.

Mr HULLS (Attorney-General) — It is a proud moment for me to conclude the debate today. People often enter politics thinking they may be able to make a difference, but down the track come to believe that is not so. However, if you are committed to a life in politics and are passionate about it you can make a difference. The Statute Law Amendment (Relationships) Bill proves that to be the case. The legislation will make a real difference because it will end discrimination against people based on their sexual orientation. Tonight I have heard many good speeches — speeches from the heart — and I believe there is enough goodwill in this place to ensure the bill will be passed in both houses.

Before going into committee on the amendments I say at the outset that tonight the government will not support the amendments proposed by the opposition. I will provide the reasons in committee. However, I give a commitment to the opposition that between now and when the bill goes to the upper house the government will further review the amendments. I have given a commitment to the shadow Attorney-General to refer the amendment relating to the Administration and Probate Act to Professor Marcia Neave, the head of the new Victorian Law Reform Commission and an expert in the area. I expect she will advise on that matter between now and when the bill goes to the upper house.

I thank those people who have worked on the legislation, particularly the government's gay and lesbian advisory committee, which has done an enormous amount of work; Department of Justice staff; and the parliamentary secretary, the honourable member for Richmond. This important legislation is also a proud moment for him.

Honourable members have received huge amounts of correspondence both for and against the legislation. As would be expected, I have received a substantial amount. I recall receiving one letter that suggested that the legislation was the only reason I was ill and in hospital. If it were withdrawn I would suddenly recover!

The legislation comes down to one's philosophical view. Government members take the view that people should not be discriminated against because of their sexual orientation. Why should people who live in a same-sex relationship not have access to property rights? Why should they not be allowed to visit their partners in hospital? Why should they have to pay stamp duty on the transfer of motor vehicles when people who live in a married or de facto relationship do not?

As the Premier said, it is hard legislation. If one has a philosophical view in government, legislation may be introduced that causes the receipt of a range of correspondence. Bad luck! The bill before the house is morally correct, appropriate and long overdue legislation.

I congratulate the Liberal Party. It has come a long way from what appeared to be its original position. I thank its members for their bipartisan support. They have done a damn good job in coming as far as they have. Nonetheless, I note that some of its members will abstain from voting or, in the case of the honourable member for Box Hill, will not support even the amendments made by the Liberal Party.

I have no doubt that the views expressed by the honourable member for Box Hill are firmly held and as a result he is voting according to his conscience. I simply disagree with his views and virtually everything he said tonight. We have to remember that this legislation is not just about ending discrimination; it is also about recognising same-sex relationships. Same-sex relationships and heterosexual de facto relationships exist in our community and we as a government are not afraid to recognise that fact. The legislation does not just end discrimination; it recognises that relationships exist in our community.

A number of people have said that the legislation undermines the sanctity of marriage. However, they have not been able to point out how that is the case. We have to remember that the legislation does not equate heterosexual or same-sex de facto relationships with marriage. The term 'spouse' that is currently used in Victorian legislation refers both to parties to a marriage and parties to a heterosexual de facto relationship. The Statute Law Amendment (Relationships) Bill restores the definition of 'spouse' to its original meaning as a party to a marriage. As we know, the bill now adopts the new term of 'domestic partner' to refer to either a heterosexual de facto or same-sex partner, thereby making a clear distinction between marriage and other domestic relationships.

We have also heard tonight that the bill will have an adverse effect on children. But the people who have made those assertions have not been able to give any examples of how that will be the case. I do know that shortly we will be referring to the Administration and Probate Act in relation to that matter, and I shall be more than happy to expand on that.

One of the most compelling contributions tonight was from the honourable member for Bayswater. He made it clear — I hope he does not mind my referring to his personal circumstances — that he was in a loving and caring relationship. I think he said the marriage itself lasted about three years, and he was entitled to property law rights and other appropriate rights that come with a marriage relationship after a period of three years. He made the pertinent point: why should people who are in a loving, caring de facto or indeed same-sex relationship for a period of three years or more not be entitled to the same sorts of rights that he was entitled to? We have to remember that at the moment in our community a married couple can be married for an hour, a day, three years or 20 years and yet they get all rights — property law rights and the like — accorded through that contract of marriage.

However, we have to remember that the bill is aimed not at fly-by-night relationships but at committed relationships in which rights and obligations inevitably arise. So I agree wholeheartedly with the pertinent point made by the honourable member for Bayswater and I thank him for his contribution because he is dead right. People who live in loving, caring relationships, whether they be same-sex relationships, heterosexual relationships or indeed marital relationships are entitled to rights. This legislation will end discrimination that exists against those people who live in loving and caring same-sex relationships.

I conclude by saying that this is a landmark piece of legislation in Victoria.

It should have been introduced many years ago, and the government is proud to be in a position to introduce it now. I hope that the bill passes through both houses and becomes law as soon as possible.

As I have said, I give a commitment that the government will look at the opposition's proposed amendments, which I did not see until they were circulated in the house today. The preliminary advice I have in relation to one of the amendments dealing with the Administration and Probate Act is that its wording is flawed, apart from anything else. I will — —

Dr Dean interjected.

Mr HULLS — Its wording is flawed, and I will refer to that when dealing with the amendments — I will explain it to the shadow Attorney-General. The government will not support those amendments.

The government hopes that this landmark legislation will receive the support of this house and the upper house because it goes a long way to ending discrimination against people based on their sexual orientation, which is long overdue.

House divided on motion:

**Ayes, 75*

Allan, Ms
Allen, Ms
Asher, Ms
Ashley, Mr
Baillieu, Mr
Barker, Ms
Batchelor, Mr
Beattie, Ms
Bracks, Mr
Brumby, Mr
Burke, Ms
Cameron, Mr
Campbell, Ms
Carli, Mr
Cooper, Mr
Davies, Ms
Dean, Dr
Dixon, Mr
Doyle, Mr
Duncan, Ms
Elliott, Mrs
Fyffe, Mrs
Garbutt, Ms
Gillett, Ms
Haermeyer, Mr
Hamilton, Mr
Hardman, Mr
Helper, Mr
Holding, Mr
Honeywood, Mr
Howard, Mr
Hulls, Mr
Kosky, Ms
Kotsiras, Mr
Langdon, Mr (*Teller*)
Languiller, Mr
Leigh, Mr
Leighton, Mr
Lenders, Mr
Lim, Mr
Lindell, Ms
Loney, Mr
Lupton, Mr
McArthur, Mr
McCall, Ms
McIntosh, Mr
Maclellan, Mr
Maddigan, Mrs
Maxfield, Mr
Mildenhall, Mr
Mulder, Mr
Napthine, Dr
Nardella, Mr
Overington, Ms
Pandazopoulos, Mr
Paterson, Mr
Perton, Mr
Phillips, Mr
Pike, Ms
Plowman, Mr
Richardson, Mr
Robinson, Mr
Rowe, Mr
Seitz, Mr
Shardey, Mrs
Smith, Mr (*Teller*)
Spry, Mr
Stensholt, Mr
Thompson, Mr
Thwaites, Mr
Trezise, Mr
Viney, Mr
Wells, Mr
Wilson, Mr
Wynne, Mr

Noes, 9

Clark, Mr
Delahunty, Mr
Ingram, Mr (*Teller*)
Jasper, Mr
Kilgour, Mr
Maughan, Mr (*Teller*)
Ryan, Mr
Savage, Mr
Steggall, Mr

**Division list subsequently corrected.*

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

Mr HULLS (Attorney-General) — I move:

1. Clause 1, omit this clause.

Dr DEAN (Berwick) — I ask the Attorney-General to give a full explanation of the amendment.

Mr HULLS (Attorney-General) — It is a simple amendment which repeals the purpose clause of the bill. The purpose clause of the bill will be combined with a new objects clause which will be inserted by the next amendment, amendment 2.

Dr DEAN (Berwick) — This is the first of 27 amendments that the government proposes to move. It is one of the most important of the amendments because it seeks to remove the entire purpose clause.

As amendments are introduced it is important that the committee understands exactly what each amendment does and how it will do it. Let us be clear about this. This is an amendment by the government to a bill which, apart from the schedules, effectively has about four major clauses that go to its heart.

Through the amendment the government aims to remove the purpose clause in its entirety. Clause 1 sets out, in general terms, that the bill introduced by the government had the purpose of amending:

> … various Acts to recognise the rights and responsibilities of partners in domestic relationships irrespective of the gender of each partner …

The amendment would remove that purpose provision entirely. It would remove the words — —

Ms Davies — On a point of order, Madam Chair, I seek your assistance. I am finding it difficult to hear what the honourable member is saying. There are a lot of complicated amendments before the committee and I would appreciate some shush in the house. I ask your assistance to achieve that.

Dr DEAN — As I was saying, the amendment removes the first provision in the bill. Prior to the schedules the bill comprises nine provisions. The government seeks to remove one-ninth of it — that is, clause 1. The words to be removed are:

> The purpose of this Act is to amend various Acts to recognise the rights and responsibilities of partners in domestic relationships irrespective of the gender of each partner …

Why is the government removing that entire clause, which is so central to what the bill aims to achieve? The answer, according to the Attorney-General, is, 'Because we are replacing it' — that is to say, 'What we had before was no good; we now intend to put in something quite different and much broader. Therefore we are replacing the entire purpose provision in the bill'.

It is important for the committee to note that although the Attorney-General says, 'The Liberal Party has come a long way because it has accepted our bill', let it be known that the first amendment moved by the Attorney-General aims to remove one-ninth of the bill about which the Liberal Party complained and to replace it with another purpose clause that goes as far as the Attorney-General is able to meet the objections identified by the Liberal Party in the first place and which needed to be corrected.

When the committee deals with the Attorney-General's amendment 2, I will discuss what the government wishes to be inserted to replace the first purpose provision. Let us not hear more nonsense about the fact that the government introduced a bill that is unacceptable.

The Liberal Party said it was unacceptable. It then made major amendments to the bill. The first amendment withdrew its entire purpose provision and a new purpose provision was inserted in line with what the Liberal Party said had to be done.

Amendment agreed to.

Clause negatived.

Clauses 2 to 9 agreed to.

New clause

Mr HULLS (Attorney-General) — I move:

2. Insert the following new clause before clause 2 —

"AA. Purpose and object

(1) The purpose of this Act is to amend various Acts in relation to domestic relationships.

(2) The object of this Act is to recognise the rights and obligations of partners in domestic relationships where there is mutual commitment to an intimate personal relationship and shared life as a couple, irrespective of the gender of each partner.".

New clause AA combines the previous purpose and objects clauses of the bill. The purpose provision is the same as the previous purpose clause. The object provision makes it clear that the object of the Statute Law Amendment (Relationships) Act is to recognise the rights and obligations of partners in domestic relationships where there is a mutual commitment to an intimate personal relationship and shared life as a couple irrespective of the gender of each partner. It inserts into the purpose clause the general tenor of the second-reading speech — that is, that this bill is to apply to domestic partnerships where there is a mutual commitment to an intimate personal relationship and a shared life.

Dr DEAN (Berwick) — As an amendment to the Attorney-General's amendment, I move:

2. In proposed new clause AA, after sub-clause (2) insert —

"(3) It is a further object of this Act to prevent discrimination under legislation specified in the Schedules by ensuring that same-sex couples who are in an equivalent relationship to de facto spouses have the same rights and obligations as de facto spouses, while at the same time recognising the importance of long term relationships and the security of children.".

As I am now moving the amendment I ask the Chair whether I will be able to make comments or ask questions at a later stage or whether I should do that now.

The CHAIRMAN — Order! The honourable member should do it now.

Dr DEAN — As I said earlier, the Attorney-General's first amendment removed the purpose clause of the bill. If he removes the purpose clause of the bill and replaces it with another purpose provision he will in effect change the purpose of his

bill. If a purpose clause is removed and replaced with another, the purpose of the bill will be changed. The Liberal Party says thank God for that, because if the Attorney-General had not done that he would have had no chance whatsoever of the bill being passed.

Why did the Attorney-General amend it? I did not follow what the Attorney-General was saying about a combination of objects and purposes and what have you. There is no clause in the bill headed 'Objects'. There is a purpose clause, and a further stipulation has been added to it.

What a stipulation it is. I ask honourable members to look at the difference. The first, now in the purposes clause, is that its purpose is to amend various acts in relation to domestic relationships and that its object is to recognise the rights and obligations of partners in domestic relationships. To that has been added:

> … where there is mutual commitment to an intimate personal relationship and shared life as a couple irrespective of the gender of each party.

That is about taking a brick and turning it into gold. It is about taking a piece of wood and turning it into a chair or taking some dirt and changing it into a mountain. It bears no comparison to the original purpose, the changes to which were not going to mention the shared life of a couple or intimate personal relationships.

Adding this provision is the only way the Liberal Party will support the legislation. There should be no mistake about that, because I have listened to the Attorney-General suggest to the house that these are only minor changes and that nothing much has happened except that the Liberal Party has changed its mind. The facts are on the amendments circulated to the house.

I again explain that the golden words 'mutual commitment' are an important phrase that means a lot to all members of this place and to the courts, and they will ensure that the problems being addressed by the bill are partly overcome. The words 'intimate personal relationship' conjure views of cohabitation, of sexual relationships and of those things we have already decided on in dealing with de facto relationships and marriage. The phrase 'intimate personal relationship' is an incredibly important part of the provision and is a massive change to the purposes of the bill. It then goes on to refer to the 'shared life as a couple'. Those few words represent a 180 degree turn, without which the Liberal Party would not have agreed to the legislation. Life goes on from the time you are born until the time you die. Therefore, a shared life has at least as its base the intention that the two partners involved will be with each other forever.

The proposed amendment is crucial because it deals with a giant hole in the legislation which, had it not been closed, would have led to all sorts of problems with relationships which should not have been afforded rights and benefits under the legislation but which would have qualified because they met all the other requirements involving mutual commitment and even the existence of a personal relationship, even though there was no intention at any time to share a life in a mutual fashion. That is at the heart of permanency. That applies when we talk of relationships, and it applied to all the words the Liberal Party used when it went to the media. I know I got into trouble when I said I did not think even the gay community, which wants this legislation, would want to see rights and benefits afforded to short-term relationships that at no time were ever considered to have any permanency about them.

I do not think that is what was intended. It is my view that some people who want to paint the gay and lesbian movement into a corner for their own political purposes say that very thing.

The CHAIRMAN — Order! There is too much audible conversation in the chamber. Would members who wish to have conversations please go somewhere else?

Dr DEAN — Therefore, legislation that changed the nature of relationships so they would not include these elements of purpose and intention to share a life together was setting up the gay and lesbian movement for the sorts of criticisms that the bigots and others, who have been using fictitious means to attack them, could use as a weapon — in other words, it was handing them something I believe the gay and lesbian movement did not want them to be given.

Whether I am right or wrong about that let me make it absolutely clear that no couples, whether they be heterosexual or same-sex, will qualify under this legislation unless they have a purpose, or certainly an intention, to share their life together as a couple. That is why the Liberal Party was able to take the step it did — why it berated the Labor Party and went to the media saying that the bill was inadequate. It is also why, when it is amended, on behalf of the Liberal Party I will not tolerate hearing from the Attorney-General every effort to try to sweep under the carpet a change as major as this, because that downgrades the efforts of both the Labor and Liberal parties to ensure the bill will pass.

I will not have the Liberal Party downgraded just for the convenience of the Attorney-General. I believe it is a way for the Attorney-General to try to hide from the gay and lesbian movement the fact that he got this wrong and put them at risk. That the Liberal Party had to get the bill changed meant that the gay and lesbian movement — —

An honourable member interjected.

Dr DEAN — Of course he will laugh at that, because the last thing he wants is for the gay and lesbian movement to think for one moment that this error and the change were his fault. If he or his department were not at fault, who was? Perhaps he wants to blame the gay and lesbian movement for the need to make the change. He cannot have it both ways. It has been put to me that the people who designed this bill, and who thereby created the need for such a fundamental change because of what was left out, were the Attorney-General, his advisers and his department.

If the gay and lesbian movement are looking for a reason why this had to happen it should not blame the Liberal Party, which had to go out and make the change. Instead it should blame the person who realised the change had to be made and has made it. I can tell the committee one thing: this Attorney-General does not make changes unless he knows he has to. He does not like to make changes and made this change only because he knew he had to do it. When a silk of the level of Brian Shaw says, 'You have it wrong in relation to the broad definition of relationships; you must have the term "couple" included and limit those matters', you must take some notice.

I say to the Attorney-General that he should be straight up and down about it. He should not try to sweep it under the carpet. The opposition congratulates him for making the change — it believes he has done the right thing — but having done the right thing he should not blot his copybook by saying it is not much. If he says a shared life as a couple is not much, he has not realised the importance of his own amendment, nor does he understand what permanent and lasting relationships are all about. I think he does, so he should not belittle the term 'shared life as a couple'.

Mr HULLS (Attorney-General) — The government will oppose the amendment moved by the honourable member for Berwick. If he has read the bill — I am sure he has — he will realise that its whole purpose is to introduce the new term 'domestic relationship', which includes de facto relationships. That does not undermine the sanctity of marriage. The purpose of the legislation is to introduce a new term 'domestic relationship' which includes de facto or same-sex relationships. The amendment goes back to the old terminology and creates further confusion about the new term of domestic relationship which includes a de facto relationship by referring to obligations as a de facto spouse. De facto relationship is included in the new definition, so the amendment moved by the shadow Attorney-General is confusing.

Nonetheless, in relation to whether amendments are major or minor, if opposition members want to believe for political purposes or for any other purpose that some of the amendments being moved are major amendments, let them believe that if it means they will support the bill. If it means they will support the bill they can go out and say until they are blue in the face that these are major amendments. The fact is that the amendments simply enshrine in legislation what was said in the second-reading speech and do not undermine the general philosophy of the bill. As a result the government believes its amendments are in line with the general tenet of the proposed legislation. If the opposition wants to say that they are major amendments, I do not give a damn so long as they support this important measure.

Dr DEAN (Berwick) — Madam Chair, I wish to speak on my amendment to the amendment of the Attorney-General. The amendment moved by the opposition, which is an important amendment relating to what the Attorney-General says about de facto, states:

> It is a further object of this Act to prevent discrimination under legislation specified in the Schedules by ensuring that same-sex couples who are in an equivalent relationship to de facto spouses have the same rights and obligations as de facto spouses, while at the same time recognising the importance of long term relationships and the security of children.

I refer to the point the Attorney-General made about the term 'de facto'. I raised with the Attorney-General's parliamentary draftsman, a man I greatly respect, that the inclusion of the term 'de facto' in this amendment would be a problem because 'de facto' in the legislation in the future will be defined as a domestic partner. His response was straight and strong. He said, 'No, because what you are doing is saying you wish to ensure that any relationships which gain the benefits and rights that are currently enjoyed by married couples and de facto couples must reach the present standards that apply to those particular relationships. Therefore, you are looking at history'.

The term 'de facto' is an important term which has been used by and is understood by the courts. Until the bill is passed it will be the appropriate term. Because we are looking at that period prior to the point when the bill is passed we must be referring to the term 'de facto partner'. I will go over it for the benefit of honourable members. The important words are:

> … who are in an equivalent relationship to de facto spouses …

That is, those people who are in an equivalent relationship to that of de facto spouses and marriages which already exist — in other words, those requirements that de factos have to be met by those relationships in the future of same-sex couples who will get those benefits. That is something the government has always said it intended to do. That is virtually the first paragraph of the Attorney-General's second-reading speech.

The second-reading speech states that the act is antidiscriminatory. In other words, we want to give certain relationships that do not currently have the same rights as de facto spouses those same rights if they are equivalent relationships. That is a central part of the second-reading speech. It is a tenet of the legislation and is the reason it is so important. There should be no problem with that because that is entirely in line with the Attorney-General's second-reading speech, and what he said was what he wanted.

I find it extraordinary that despite the fact that the Liberal Party will vote in favour of the amendments proposed by the Attorney-General, in the 9 hours since the start of the debate on the bill the Attorney-General has not been able to make a decision on whether a one-paragraph amendment is appropriate. What is absolutely incredible is that he will tonight vote against an amendment that recognises the importance of long-term relationships and the security of children. Tonight he will vote against an amendment that contains two elements: firstly, that this is discrimination legislation and not a remake of relationships; and secondly, that the long-term relationships and security of children are important.

I turn to examine the amendments proposed by the honourable member for Gippsland West. We gave our amendments to each other at about the same time this morning. If I can look at those amendments, covering 10 pages, in the 9 hours I have had, without the benefit of all the paraphernalia the Attorney-General has at his fingertips to give him advice, and make a decision that we can support them because they are in line with what we want, yet the Attorney-General cannot in the same time give an okay or a thumbs down to one paragraph, I begin to suspect that there is something happening here apart from a genuine need to have a good look at this paragraph. Either he is not up to it or he intends not to agree to this in any way.

I make it clear that this is absolutely fundamental stuff. We have spent a lot of time getting the amendments together. We have not proposed 27 amendments, we have proposed two amendments. This amendment is benign; it simply underlines the things we have said. If the Attorney-General decides after he has voted against the amendment in this house that he will scrap it, it will be proposed in the upper house and the bill will come back. The Attorney-General can then make his decision again. If he wants to change it again, the bill will go up and will come back down to this house. That is only a fair thing in the circumstances, given that we have required only two amendments to the bill, this one being benign. We will agree to the Attorney-General's 27 amendments without demur tonight as they present no other qualifications or problems.

Let us get a bit of balance into this argument and ensure that, although the Attorney-General in 9 hours cannot make a decision on this amendment and will vote against it, the so-called advice he receives between now and when the legislation is debated in the upper house is not simply a ruse to try to work against this amendment.

Ms DAVIES (Gippsland West) — I will vote against this amendment proposed by the honourable member for Berwick. The whole central point of the bill is that we refer to spouses, and spouses means legally married people.

Another term in the bill is 'domestic partners'. Domestic partners are either heterosexual or homosexual couples. I find the introduction of the term 'de facto spouse' to be irrelevant and confusing and I would not support it as part of the bill.

Committee divided on Dr Dean's amendment:

Ayes, 33

Asher, Ms	McIntosh, Mr
Ashley, Mr	Maclellan, Mr
Baillieu, Mr	Mulder, Mr
Burke, Ms	Napthine, Dr
Clark, Mr	Paterson, Mr
Cooper, Mr	Perton, Mr
Dean, Dr	Phillips, Mr
Dixon, Mr	Plowman, Mr
Doyle, Mr	Richardson, Mr
Elliott, Mrs	Rowe, Mr
Fyffe, Mrs	Shardey, Mrs
Honeywood, Mr	Smith, Mr (*Teller*)
Kotsiras, Mr	Spry, Mr
Leigh, Mr	Thompson, Mr

Lupton, Mr (*Teller*)
McArthur, Mr
McCall, Ms
Wells, Mr
Wilson, Mr

Noes, 50

Allan, Ms
Allen, Ms
Barker, Ms
Batchelor, Mr
Beattie, Ms
Bracks, Mr
Brumby, Mr
Cameron, Mr
Campbell, Ms
Carli, Mr
Davies, Ms
Delahunty, Mr
Duncan, Ms
Garbutt, Ms
Gillett, Ms
Haermeyer, Mr
Hamilton, Mr
Hardman, Mr
Helper, Mr
Holding, Mr
Howard, Mr
Hulls, Mr
Ingram, Mr
Jasper, Mr
Kilgour, Mr
Kosky, Ms
Langdon, Mr (*Teller*)
Languiller, Mr
Leighton, Mr
Lenders, Mr
Lim, Mr
Lindell, Ms
Loney, Mr
Maughan, Mr (*Teller*)
Maxfield, Mr
Mildenhall, Mr
Nardella, Mr
Overington, Ms
Pandazopoulos, Mr
Pike, Ms
Robinson, Mr
Ryan, Mr
Savage, Mr
Seitz, Mr
Steggall, Mr
Stensholt, Mr
Thwaites, Mr
Trezise, Mr
Viney, Mr
Wynne, Mr

Amendment negatived.

New clause agreed to.

Schedule 1

Ms DAVIES (Gippsland West) — I move:

1. Schedule 1, after line 27 insert —

‘. In section 3, after sub-section (2) **insert** —

‘(3) For the purpose of the definition of “domestic partner” in sub-section (1), in determining whether persons were domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.’.’.

I will not speak on each one of the amendments to the schedules because they are largely repetitive, but to begin the procedure this amendment asks that in determining whether persons are domestic partners of each other all the circumstances of their relationship be taken into account, including any one or more of the matters referred to in section 275(2), which for the information of honourable members is printed on page 2 of the amendments. It lists all the circumstances of the relationship that are to be taken into account, including any one or more of the following matters as may be relevant in a particular case:

(a) the duration of the relationship;

(b) the nature and extent of common residence;

(c) whether or not a sexual relationship exists;

(d) the degree of financial dependence or interdependence, and any arrangements for financial support, between the parties;

(e) the ownership, use and acquisition of property;

(f) the degree of mutual commitment to a shared life;

(g) the care and support of children;

(h) the reputation and public aspects of the relationship.

This is the first of many insertions that will put in that more complete and defined determination of what constitutes a domestic partnership. I ask that all honourable members support this amendment, as has been indicated during the debate.

Dr DEAN (Berwick) — I have both a question and a comment.

The CHAIRMAN — Order! The honourable member should make his comment and ask his question. Whether he wishes to respond or not is then up to the minister.

Dr DEAN — The question I have for the honourable member for Gippsland West is: which act is this amending and what is the effect of the amendment on that act?

Ms DAVIES (Gippsland West) — It amends the Administration and Probate Act 1958. It inserts a more specific definition of domestic partner, which entails the different aspects I read out being taken into consideration.

Dr DEAN (Berwick) — Although the honourable member for Gippsland West has decided not to vote for or support the opposition’s amendment recognising the importance of long-term relationships and the security of children, the opposition will support the amendment moved by the honourable member for Gippsland West.

The reason is that those amendments include a range of matters which effectively solidify for all time, in relation to both heterosexual and same-sex relationships, the factors that a court ought to look at to determine whether the relationship reaches that stage. The duration of the relationship was important to the Liberal Party. It stated on many occasions in the media and elsewhere and to the gay and lesbian movement that the bill as it was prior to these amendments did not have within its ambit reference to whether the duration

of the relationship would be an important matter. As a consequence this amendment has made all the difference.

It is important to take into account the nature and extent of common residence when determining whether the relationship to be given rights and benefits is one which should so qualify. That again applies equally to heterosexual or gay relationships. Whether there is a sexual relationship again emphasises that cohabitation and intimate personal relationships are what we are talking about. It was important so far as the Liberal Party was concerned to ensure that the problems with the definition in the original legislation were overcome. There was an absolute absence of terminology, particularly in the broad definition because the term 'couple' was not even mentioned.

The degree of financial dependence or interdependence and any arrangements for financial support between parties was relevant. Many of the benefits acquired by parties that will now reach the standard and will therefore have the rights are to do with the ownership, acquisition and use of property. They are to do with whether one person should be able to purchase the other's interest in the house and whether on intestacy a person gets an amount of property. An entire section deals with the property rights given to people who reach this level. Therefore it is not unfair to assume that the ownership, use and acquisition of property should be something that is considered when determining whether a relationship should qualify.

I have already spoken about the degree of mutual commitment to a shared life. Of all the items set down, this is the most important to the Liberal Party in determining whether a relationship should be rewarded with the qualifications that flow from obtaining the same rights and benefits as a consequence of the nature of the relationship.

The care and support of children has already been covered, and almost every speaker has said how important that is. The reputation and public aspect of a relationship is an interesting matter. I am not sure the Liberal Party would have insisted upon this, but the honourable member for Gippsland West has done so. The matter has not been discussed by the party room and I will therefore be cautious about what I say, but I wonder whether the public aspects of a relationship ought to be a matter central to whether a particular relationship has the support of the community in order to obtain special benefits.

Nevertheless it is there, and I guess it is part of a package that the court can look at and determine whether it is appropriate.

I will pick up the shared home example for a moment. It is important to note that the amendment the Liberal Party has foreshadowed in removing a portion of the Administration and Probate Act aims for it to be looked at by the Law Reform Committee or whatever is an appropriate body. The Liberal Party is not requesting the removal of the shared home and so forth provision. So far as that is concerned, it is important that a gay couple who share a home and comply with the requirements of duration and of long-term and loving relationship be in the same position as a heterosexual couple when one partner dies. One party should not be thrown out of that house effectively on the basis of their gender, which is what would happen without that provision.

I will not go into the proposed amendments in relation to the removal of other portions of the Administration and Probate Act and why we believe this needs to be looked at further; I will do that at another time. However, I think these requirements are important for this bill.

Mr HULLS (Attorney-General) — The government supports the amendment.

Amendment agreed to.

Dr DEAN (Berwick) — I move:

Schedule 1, page 6, lines 7 to 33, omit all words and expressions on these lines and insert —

'. In section 52(1)(a), (b), (e) and (ea), for "widow or widower" **substitute** "partner".'.

I will first look closely at the way in which this is done. After a long chat the parliamentary draftsman put it to me that there were a number of ways in which we could achieve what we wished to achieve.

Mr Wynne interjected.

Dr DEAN — This is deleting lines 7 to 33.

Mr Wynne interjected.

Dr DEAN — Not exactly 51 and 53, it is removing lines 7 to 33, and I will go into those lines now. The parliamentary draftsman put it to me that to effect the removal of the two-year and the five-year rule provisions it was necessary to remove all that portion on page 6 of the bill, effectively item 1.8, which says, 'After section 51 insert — …'. In item 1.9 it was also necessary to remove (a), which inserts 'and 51A' after

section 51. I know that sounds very difficult, but to achieve the objective we are seeking the parliamentary draftsman proposes the removal of items 1.8 and 1.9 in their entirety. The part of item 1.9 that should not have been removed because it refers to something else should then be put back in.

That shows the complexity of this process. The parliamentary draftsman made it clear to me that it would be possible to do it by way of two amendments, but he said the better way to do it was to remove both item 1.8 and item 1.9 from the bill — schedule 1, lines 6 to 33 — and put back in that portion of item 1.9 that should not have gone; we then insert item 1.9(b) because we have just taken it out. That was the cleanest and simplest way of doing it rather than trying to remove a portion of item 1.9 and then reconstitute item 1.9 next to (b) and call it (a), et cetera.

I am therefore entirely in the hands of the parliamentary draftsman. I believe he has done his work. I hear the Attorney-General saying he believes the parliamentary draftsman has not achieved the object the opposition requires. I will be interested to hear how that has happened; it looks pretty straightforward to me.

Why were the words removed? There is no doubt that at the moment, whether or not the bill is passed, there is a problem. If a person dies intestate all the estate goes to the next of kin, and under the act that means it goes to the husband or the wife. Where such a person has had a relationship with someone else or where others believe they have a special interest in the property a situation can arise, and someone may decide they have to bring a part 4 action. I agree with the government that that needs to be fixed. Why a decision was made to try to fix that problem as well in legislation that is doing so much work already, I am not sure. In any event, that is what the government attempted to do, and to that extent I have no quarrel with it.

The problem with the existing situation is that it is rigid. When it was in government the coalition attempted to overcome that rigidity by amending part 4 to broaden the range of people who could bring actions under part 4 to include people living in a special relationship. That was at all times a shot in the dark. If things are left exactly where they were and part 4 remains, so be it. The government, however, has decided to try to make things fairer, and I understand that.

What the government has said is that rather than the widow getting everything and everyone else having to go back to part 4, let us have a domestic partner situation — for two years you get half, for five years you get it all and everybody else has to go to a part 4. That is a step in the right direction, but my view and the view of the Liberal Party is that if we are going to fix it we should ensure that people do not have to go through part 4s, because right at the start there is a better and more discreet way to give a fairer outcome.

Let me make the point a little clearer. Say a person has for 20 years been in a gay de facto relationship that involved the care of children coming from each party and then one person moves to another relationship that lasts for five years, at which time he or she dies. It may be that the second relationship was a rocky one that would have broken up in five years anyway. Under the proposed legislation, however, when the person dies the five-year partner gets everything and the 20-year partner, who may still be looking after the children, including children of the deceased former partner, gets nothing and has to go through a part 4 action. That situation does not need to be expressed in terms of marriage versus homosexual relationship, it can be expressed simply in terms of fairness. It is totally unfair that a partner of 20 years automatically gets nothing and a partner of five years gets everything just because it was the last relationship that person happened to be in.

I am not berating the government for attempting to remedy the situation, I am simply saying there is a better way. That is why the opposition is not saying the provision should be removed, only that it should be looked at — by the Law Reform Committee in our view. I have heard the Attorney-General saying it should be looked at by someone else. That will need to be discussed in the Liberal Party room, because we have already agreed on the idea of the Law Reform Committee and I cannot give any other answer. Regardless of who looks at it, however, it needs to be looked at, so we might as well take the opportunity to knock it on the head now and get it right in a bipartisan way. That is why this amendment has been moved.

Mr HULLS (Attorney-General) — The amendment moved by the opposition proposes to remove lines 7 to 33 from schedule 1.

The amendment will remove the provision for the distribution of an intestate's estate between a spouse and domestic partner under the Administration and Probate Act. However, there are two other provisions, one of which was referred to by the shadow Attorney-General, which will remain — item 1.7 and the amendment to section 52 of the act. They also deal with distribution on intestacy. If this amendment were passed there would be real concern about how those provisions would operate. There are sections dealing with distribution on intestacy, yet the opposition is

proposing to remove the scheme that deals with it. Therefore the government does not believe the amendments are appropriate.

It must be remembered that a scheme to resolve competing interests is required when a person dies without leaving a will. A scheme is required when one person in a same-sex relationship dies without leaving a will and there are competing interests with a former relationship. The clauses set out such a scheme, which the government believes is appropriate. Of course, in some of the examples he cited the shadow Attorney-General forgot the fact that in most cases where there has been a separation for two years, there will have been property settlements.

Dr Dean interjected.

Mr HULLS — There will have been property settlements — and if there have not, there is a scheme in place that the government believes is appropriate. I have given an undertaking to the shadow Attorney-General that his amendment and the distribution provisions set out in the bill will be referred to an expert in the field. Professor Marcia Neave, who heads the Law Reform Commission, probably has more expertise in this area than anyone else in Victoria. I will refer the matter to her for her advice between now and when the bill is due to be debated in the upper house.

The current statutory scheme for the distribution of an intestate's estate provides that a spouse is entitled to the first $100 000 and the first third of the remainder of the estate. The remaining two-thirds of the estate is distributed among the children of the deceased. This aspect of the scheme — namely, the distribution of two-thirds of the remainder of the estate — will not be changed by the proposed amendments. So I point out to those who have raised concerns about children being looked after and the like that the scheme as set out in the legislation will not change that at all. Where there is a new partner of between two and five years standing, the first $100 000 of the estate and the first one-third would be split equally between the spouse and the domestic partner. Where there are competing interests, the remaining two-thirds will still be distributed in line with the current scheme among any children of the deceased. The children will be looked after under the new scheme.

Where there is a new partner of more than five years standing, under this legislation that new partner would get the first $100 000 and the first one-third of the estate and the remaining two-thirds would still be distributed among the children of the deceased, so there would be no change at all with regard to that aspect. Currently where the deceased has no children the spouse is entitled to all the estate. If the de facto relationship has been in existence for between two and five years, it would be split evenly between the de facto and the spouse; and after five years this scheme provides that the de facto would be entitled to the entire estate. There has to be a scheme to resolve competing interests, and the government believes this scheme is appropriate. It does not in any way adversely impact on children of the relationships.

The government believes it has got it right. However, the shadow Attorney-General has moved an amendment, and the government will not be pig-headed about it. The government wants the legislation to be passed, so I have agreed to get further advice on the scheme before the bill goes to the upper house.

The government believes there must be a scheme for competing interests and it has it right, which is why it will not support the amendment proposed by the opposition.

Dr DEAN (Berwick) — I refer to points raised by the Attorney-General, including his reference to item 1.7 of section 52 and whether that should have been taken out as well. It is not the purpose of the opposition to destroy that section. Those parts of the section that can remain ought to remain, which was also the view of parliamentary counsel. The only portion that is removed is the portion that needs to be examined again because it replaces one rigidity with another rigidity.

It is all right for the Attorney-General to refer to the first $100 000 and the next two-thirds of the estate, but clearly he felt that was unfair, which is why he made amendments. The Liberal Party believes the introduction of a two-year and a five-year arbitrary time limit is as unfair as the previous statement.

The two-thirds distribution is an interesting point. I will examine that closely. It is not what it appears to me to be the case from the amendment. Whether amounts are given to children or not, it is inappropriate to say that in most cases people have property settlements. Parliaments must legislate for the worst case scenario because that case will come along and a problem is created if the legislation does not cope.

So far as the $100 000 is concerned, it ought not to be split in this arbitrary way. The Liberal Party cannot support legislation on the basis that two children may be involved. Children are important, but it goes beyond that. It is not appropriate to say that everything will work out okay where children are involved. It must work out okay for every situation, which is the

opposition's problem. I am heartened by the Attorney-General's statement that he will examine the situation. The opposition will refer the matter to the Law Reform Committee in the upper house unless it is convinced that any other process will be as good. The opposition wants to see that the best legislation results. As a consequence, it will do its best to accommodate the government.

Mr PLOWMAN (Benambra) — In response to the suggestion of the Attorney-General that if in the situation of section 51(1)(a) the partner's share of the residual estate is to be distributed equally between the domestic partner and the spouse, to then suggest that if the children remain with the spouse they are not adversely affected defies my logic.

Ms DAVIES (Gippsland West) — I will not support this particular amendment. The house has been discussing the bill for a long time and negotiations have also gone on for a long time. I fail to see why the Liberal Party did not submit this possible amendment some time ago. I note that the Attorney-General says it will be examined in the intervening period as it moves to the upper house. On that basis I am happy to support the government in this particular case and vote against the amendment.

Committee divided on omission (members in favour vote no):

Ayes, 50

Allan, Ms
Allen, Ms
Barker, Ms
Batchelor, Mr
Beattie, Ms
Bracks, Mr
Brumby, Mr
Cameron, Mr
Campbell, Ms
Carli, Mr
Davies, Ms
Delahunty, Mr
Duncan, Ms
Garbutt, Ms
Gillett, Ms
Haermeyer, Mr
Hamilton, Mr
Hardman, Mr
Helper, Mr
Holding, Mr
Howard, Mr
Hulls, Mr
Ingram, Mr
Jasper, Mr
Kilgour, Mr
Kosky, Ms
Langdon, Mr (*Teller*)
Languiller, Mr
Leighton, Mr
Lenders, Mr
Lim, Mr
Lindell, Ms
Loney, Mr
Maughan, Mr (*Teller*)
Maxfield, Mr
Mildenhall, Mr
Nardella, Mr
Overington, Ms
Pandazopoulos, Mr
Pike, Ms
Robinson, Mr
Ryan, Mr
Savage, Mr
Seitz, Mr
Steggall, Mr
Stensholt, Mr
Thwaites, Mr
Trezise, Mr
Viney, Mr
Wynne, Mr

Noes, 34

Asher, Ms
Ashley, Mr
Baillieu, Mr
Burke, Ms
Clark, Mr
Cooper, Mr
Dean, Dr
Dixon, Mr
Doyle, Mr
Elliott, Mrs
Fyffe, Mrs
Honeywood, Mr
Kotsiras, Mr
Leigh, Mr
Lupton, Mr
McArthur, Mr
McCall, Ms *(Teller)*
McIntosh, Mr
Maclellan, Mr
Mulder, Mr
Napthine, Dr
Paterson, Mr
Perton, Mr
Phillips, Mr
Plowman, Mr
Richardson, Mr
Rowe, Mr
Shardey, Mrs
Smith, Mr (*Teller*)
Spry, Mr
Thompson, Mr
Vogels, Mr
Wells, Mr
Wilson, Mr

Amendment negatived.

The CHAIRMAN — Order! Now that the first amendment from the honourable member for Gippsland West has been carried by the chamber, it is appropriate that the remaining amendments are moved in bulk as the principle is the same — the amendments simply refer to different acts.

Dr Dean interjected.

The CHAIRMAN — Order! Yes, the same schedule. Unless honourable members wish to speak individually on one of the amendments to one of the acts — that is, the amendments contain the same words but affect different acts.

Dr Dean — On a point of order, Madam Chair, I seek a clarification.

The CHAIRMAN — Order! Yes, I will allow you to do that.

Dr Dean — On a point of order, the amendments may deal with the same schedule but they amend entirely different acts. Therefore, the effect of each amendment will be different. Both sides of the chamber would agree that the same amendment may be made to different acts and yet the effect is quite separate. It would be totally contrary to call them consequential amendments. Although they are put in one schedule because that is a convenient way for the parliamentary draftsperson to package them, each one could be in separate schedules because they are amending different acts.

Mr Hulls — On the point of order, Honourable Chair, by way of trying to help the chamber with what may be happening with these amendments, I say at the outset that the government is supporting all the amendments moved by the honourable member for Gippsland West.

The CHAIRMAN — Order! It was suggested that the amendments be moved in groups to allow the procedure to move along, but if the honourable member for Berwick or other honourable members have an objection to that they can be dealt with one at a time.

Ms DAVIES (Gippsland West) — I move:

2. Schedule 1, page 7, after line 25 insert —

'. At the end of section 3 **insert** —

'(3) For the purposes of the definition of "domestic relationship" in sub-section (1), in determining whether a domestic relationship exists, all the circumstances of the relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.'.'.

3. Schedule 1, page 9, after line 18 insert —

'. At the end of section 3 **insert** —

'(2) For the purposes of the definition of "domestic partner" in sub-section (1), in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.'.'.

4. Schedule 1, page 10, after line 14 insert —

'. At the end of section 3 **insert** —

'(2) For the purposes of the definition of "domestic partner" in sub-section (1), in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.'.'.

5. Schedule 1, page 10, after line 24 insert —

'. In section 3, after sub-section (1) **insert** —

'(1A) For the purposes of the definition of "domestic partner" in sub-section (1), in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.'.'.

6. Schedule 1, page 10, after line 34 insert —

'. In section 3, after sub-section (1) **insert** —

'(1A) For the purposes of the definition of "domestic partner" in sub-section (1), in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.'.'.

7. Schedule 1, page 11, after line 12 insert —

'. In section 43, after sub-section (6) **insert** —

'(7) For the purposes of the definition of "domestic partner" in sub-section (1), in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.'.'.

8. Schedule 1, page 13, after line 2 insert —

'. In section 2, after sub-section (3) **insert** —

'(4) For the purposes of the definition of "domestic partner" in sub-section (1), in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.'.'.

All the amendments deal with schedule 1 and property-related benefits. The wording is identical to that of amendment 1, which was agreed to.

Amendments agreed to.

Mr HULLS (Attorney-General) — I move:

3. Schedule 1, page 13, lines 26 and 27, omit "(whether or not the other domestic" and insert "of whom the other".

4. Schedule 1, page 13, line 29, omit ")".

The amendments amend the Property Law Act, which is in schedule 1. They amend the definition of 'child' in item 9.2 of schedule 1 to make it clear that one of the partners has to be presumed to be the father of the child under part 2 of the Status of Children Act 1974. If there is a child of the partners or one partner has the care and control of the other partner's child, the court may make an order adjusting the property interests of the partners where the relationship has lasted for less than two years.

Dr DEAN (Berwick) — Again, these are crucial amendments. One of the problems the Liberal Party had with the proposed legislation was that under the amendments to the Property Law Act — I can understand how it happened — it would be possible for a domestic relationship to qualify where only one of the parties had a relationship with the child. In other words,

under the Property Law Act, the qualifying time is two years, or it can be less than two years — that is, as short as one week — if there is a child of the partners. That was easily enough accommodated in a marriage or a heterosexual relationship because the child is either the biological child or came through IVF or through adoption, so both parties automatically had a relationship with the child.

The difficulty was that in a gay relationship you could not have a child biologically, through IVF or by adoption. So the problem was: how do we allow a relationship of less than two years in a gay domestic partnership where none of those things apply? So it was simply decided that one of the parties has to have the child. It was put to me by the gay and lesbian movement that that was an error. I do not know whether the government says it is an error; it certainly is inappropriate.

Mr Hulls — It is an anomaly.

Dr DEAN — It is one of the homilies about anomalies that we hear from the government!

It is clear why it happened. It is also clear that therefore there could be a situation where two people came together in a heterosexual or gay relationship and one of them had a child that the other party did not even know about. The child might be living overseas somewhere and all of a sudden, after two weeks, one person has cracked it because it has suddenly become a domestic relationship, with all the rights and so forth. It was clearly not the way to go. It has been changed to ensure that before it clicks in both parties have a relationship to the child. That is very important.

It is just another example of either bad drafting, which honourable members were talking about earlier, an error, or intention. If it was intended — —

Mr Hulls interjected.

Dr DEAN — No, Eamonn Moran takes his instructions. They are called drafting instructions, and the Attorney-General writes them!

It is just another of the errors that has had to be fixed up. I get annoyed when the Liberal Party is beaten around the head because it has to make amendments. It is as though the government believes it is entitled to make these sorts of drafting errors, which create problems, yet escape any form of rebuke.

Amendments agreed to.

Ms DAVIES (Gippsland West) — I move:

9. Schedule 1, page 13, after line 35 insert —

'. At the end of section 275 **insert** —

'(2) For the purposes of the definition of "domestic relationship" in sub-section (1), in determining whether a domestic relationship exists or has existed, all the circumstances of the relationship are to be taken into account, including any one or more of the following matters as may be relevant in a particular case —

(a) the duration of the relationship;

(b) the nature and extent of common residence;

(c) whether or not a sexual relationship exists;

(d) the degree of financial dependence or interdependence, and any arrangements for financial support, between the parties;

(e) the ownership, use and acquisition of property;

(f) the degree of mutual commitment to a shared life;

(g) the care and support of children;

(h) the reputation and public aspects of the relationship.'.'.

10. Schedule 1, page 14, after line 33 insert —

'. In section 3, after sub-section (2) **insert** —

'(3) For the purposes of the definition of "domestic partner" in sub-section (1), in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.'.'.

11. Schedule 1, page 15, after line 10 insert —

'. In section 3, after sub-section (6) **insert** —

'(7) For the purposes of the definition of "domestic partner" in sub-section (1), in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.'.'.

12. Schedule 1, page 15, after line 22 insert —

'. In section 2, after sub-section (1) **insert** —

'(1A) For the purposes of the definition of "domestic partner" in sub-section (1), in determining whether persons are domestic partners of each

other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958**.'.'.

13. Schedule 1, page 16, after line 5 insert —

'. At the end of section 3 **insert** —

'(2) For the purposes of the definition of "domestic relationship" in sub-section (1), in determining whether a domestic relationship exists, all the circumstances of the relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.'.'.

14. Schedule 1, page 18, after line 13 insert —

'. In section 3, after sub-section (1) **insert** —

'(1A) For the purposes of the definition of "domestic partner" in sub-section (1), in determining whether persons were domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.'.'.

These are also schedule 1 amendments related to property-related acts.

Committee divided on amendment 9:

Ayes, 75

Allan, Ms
Allen, Ms
Asher, Ms
Ashley, Mr
Baillieu, Mr
Barker, Ms
Batchelor, Mr
Beattie, Ms
Bracks, Mr
Brumby, Mr
Burke, Ms
Cameron, Mr
Campbell, Ms
Carli, Mr
Cooper, Mr
Davies, Ms
Dean, Dr
Dixon, Mr
Doyle, Mr
Duncan, Ms
Elliott, Mrs
Fyffe, Mrs
Garbutt, Ms
Gillett, Ms
Haermeyer, Mr
Hamilton, Mr
Hardman, Mr
Helper, Mr
Holding, Mr
Honeywood, Mr
Howard, Mr
Hulls, Mr
Kosky, Ms
Kotsiras, Mr
Langdon, Mr (*Teller*)
Languiller, Mr
Leigh, Mr
Leighton, Mr
Lenders, Mr
Lim, Mr
Lindell, Ms
Loney, Mr
Lupton, Mr
Maclellan, Mr
Maxfield, Mr
McArthur, Mr
McCall, Ms
McIntosh, Mr
Mildenhall, Mr
Mulder, Mr
Napthine, Dr
Nardella, Mr
Overington, Ms
Pandazopoulos, Mr
Paterson, Mr
Perton, Mr
Phillips, Mr
Pike, Ms
Plowman, Mr
Richardson, Mr
Robinson, Mr
Rowe, Mr
Seitz, Mr
Shardey, Mrs
Smith, Mr (*Teller*)
Spry, Mr
Stensholt, Mr
Thompson, Mr
Thwaites, Mr
Trezise, Mr
Viney, Mr
Vogels, Mr
Wells, Mr
Wilson, Mr
Wynne, Mr

Noes, 9

Clark, Mr
Delahunty, Mr
Ingram, Mr
Jasper, Mr
Kilgour, Mr
Maughan, Mr (*Teller*)
Ryan, Mr
Savage, Mr (*Teller*)
Steggall, Mr

Amendment agreed to.

Amendments 10 to 14 agreed to; amended schedule agreed to.

Schedule 2

Ms DAVIES (Gippsland West) — I move:

15. Schedule 2, after line 31 insert —

'. In section 5, after sub-section (17) **insert** —

'(18) For the purposes of the definition of "domestic partner" in sub-section (1), in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.'.'.

16. Schedule 2, page 22, after line 5 insert —

'. At the end of section 34A **insert** —

'(2) For the purposes of the definition of "domestic partner" in sub-section (1), in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.'.'.

17. Schedule 2, page 23, after line 16 insert —

'(1B) For the purposes of the definition of "domestic partner" in sub-section (1A), in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.'.'.

18. Schedule 2, page 25, line 13, omit paragraph (c).

19. Schedule 2, page 25, after line 13 insert —

'. In section 3, for sub-section (6) **substitute** —

'(7) For the purposes of the definition of "domestic partner" in sub-section (1), in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.'.'.

Amendments agreed to; amended schedule agreed to.

Schedule 3

Ms DAVIES (Gippsland West) — I move:

20. Schedule 3, after line 16 insert —

'. At the end of section 3 **insert** —

'(2) For the purposes of the definition of "domestic partner" in sub-section (1), in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.'.'.

21. Schedule 3, page 29, after line 6 insert —

'. At the end of section 3 **insert** —

'(2) For the purposes of the definition of "domestic partner" in sub-section (1), in determining whether persons are or were domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.'.'.

22. Schedule 3, page 30, after line 8 insert —

'. In section 10, after sub-section (1) **insert** —

'(1A) For the purposes of the definition of "domestic partner" in sub-section (1), in determining whether persons are or were domestic partners of each other, all the circumstances of their relationship are to be taken in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.'.'.

23. Schedule 3, page 31, after line 13 insert —

'. In section 2, after sub-section (5) **insert**

'(6) For the purposes of the definition of "domestic partner" in sub-section (1), in determining whether persons are or were domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.'.'.

24. Schedule 3, page 33, after line 20 insert —

'. In section 3, after sub-section (7) **insert** —

'(8) For the purposes of the definition of "domestic partner" in sub-section (1), in determining whether persons are or were domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.'.'.

25. Schedule 3, page 35, after line 26 insert —

'. In section 3, after sub-section (3) **insert** —

'(4) For the purposes of the definition of "domestic partner" in sub-section (1), in determining whether persons are or were domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.'.'.

26. Schedule 3, page 36, after line 26 insert —

'. In section 3, after sub-section (4) **insert** —

'(5) For the purposes of the definition of "domestic partner" in sub-section (1), in determining whether persons are or were domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.'.'.

The amendments concern superannuation acts.

Amendments agreed to; amended schedule agreed to.

Schedule 4

Mr HULLS (Attorney-General) — I move:

5. Schedule 4, line 8, omit "in which" and insert "as a couple where".

The amendment amends the definition of domestic partner in the Alcoholics and Drug-dependent Persons Act included in schedule 4. The purpose of the amendment is that domestic partners have to be in a relationship as a couple to come within the definition.

Dr DEAN (Berwick) — This is another major government amendment.

Mr Hulls interjected.

Dr DEAN — Either the Attorney-General does not understand the significance of the term 'couple' or he believes the term is not important. If that is the case one has to wonder why he decided to make approximately 20 amendments to ensure it is in almost every single act. The fact that the Attorney-General is including the

word ‘couple’ is very important because it has all sorts of connotations at common law with respect to cohabitation and other matters that concern the intimate nature of relationships.

I am glad that the gay and lesbian movement briefed Shaw, QC, because, as I said before and will say again, Shaw is probably one of the finest minds at the bar and has always been regarded as such. He is a man who has a particular capacity in relation to statutory interpretation. There is not a person at the bar who would be able to give a better summary of statutory interpretation than Shaw. What Shaw held was, firstly, that the term ‘couple’ has important ramifications which is why I was surprised when the Attorney-General laughed at my opening comments. Shaw said that the ramifications were included in the narrow definition because the term ‘couple’ is included in that definition, but for reasons that escaped him, unless it was intended that parties who qualified under the broad definition did not have to be couples, he did not understand why the term ‘couple’ was missed out in the broad definition.

One of the major concerns of the Liberal Party illustrated in a number of examples set out the ramifications of the broad definition if there was not a couple connection between the two parties. The example was given of Aunt Martha visiting a sick nephew and spending money and time looking after the nephew, perhaps a married nephew whose wife was elsewhere, but having spent all that time and money she was therefore in a financial or a personal relationship because of the personal services she gave to that person.

Shaw held that therefore it is quite possible that in those circumstances Aunt Martha would qualify with the nephew as a domestic couple. I did not say that — one of the finest minds of the bar said it. He went on to say that further ramifications followed from that and they were matters and problems that should be raised and dealt with. I presume that is why the government has decided that the term ‘couple’ should be included in the broad definition.

Let me make it absolutely clear that the inclusion of ‘couple’ in the definition in fact narrows the definition to the point where it relates only to people who are in that sort of close relationship. Therefore, what has happened is that the broad definition is probably now narrower than the narrow definition: it has all the qualities of the narrow definition, plus the need for financial commitment or a financial or personal services transfer between the couple. I would have to say it has made an absolute mockery of the broad definition.

But it was very wrong of the Liberal Party to say there was a problem there! And let us not mention the fact that this amendment has now been brought in, which has made that broad definition a nonsense, because those things ought not to be mentioned! The one thing this opposition will not do is simply agree to let the legislation pass when it is inappropriate and badly drafted and its effects are contrary to its purposes.

Even though honourable members might say it is because it is late at night, I have no trouble at all saying to this Parliament that I get annoyed and offended that when I comment that there is a problem with the broad definition — a silk who was obtained by the other side said, ‘Yes, you are absolutely right’, and our own silk, Mukhtar, QC, said the same thing — and when I get up and say in Parliament that this needed to be done and that should have been changed, all I get from the other side is, ‘Oh no, this is minor, this is just a bit of laughter. What do you mean? Just putting in “couple” means nothing’. It is true that I get a bit upset about that sort of attitude, and I have a right to be upset.

Mr Wynne interjected.

Dr DEAN — The honourable member for Richmond can grumble as much as he likes; the fact is that that was inappropriate legislation. It took the Liberal Party to direct attention to the problem, for which it got arrows and all sorts of outrageous claims. It then took a silk who was employed either by the government or the gay and lesbian movement to point that out, and then it took an amendment in this place, which appears 27 times, to correct it. And so it should have been corrected. It is as a result of that correction that the Liberal Party is now in a position to support these amendments and the bill.

Ms DAVIES (Gippsland West) — In regard to the shadow Attorney-General’s comments, I appreciate the government’s willingness to negotiate on amendments. Many minds sometimes make stronger legislation than one dictatorial government with an overwhelming majority in both houses of Parliament.

During the term of the previous government what used to happen when someone said, ‘There is a problem with this legislation; it is poorly drafted and it will have unforeseen consequences’ was that the then government would say, ‘We do not have to take any notice of you, go jump’, and several months down the track it would introduce amendments to the legislation because there had been unforeseen consequences. So I believe it is a strength of this government and this term of Parliament that we are able to negotiate amendments as legislation goes through.

Dr DEAN (Berwick) — The honourable member for Gippsland West comments — —

Ms Davies — You always have to have the last go, do you?

Dr DEAN — I am entitled — it is called parliamentary practice. I shall respond to the honourable member for Gippsland West, who has accused me of being political, yet in her main contribution she tried to point to another time on which she wanted to score a political point. It is no good scoring a political point and then becoming all prim and proper when the point she tried to score draws a reaction — and a reaction it will be.

I point out to the honourable member for Gippsland West that this is not a matter for negotiation, because the government did not speak to the opposition once about this.

Mr Hulls — That is absolute nonsense!

Honourable members interjecting.

The CHAIRMAN — Order! I know it is getting late, but I ask honourable members to assist in ensuring that the debate continues as quickly as possible. The honourable member for Springvale is out of his seat and I ask him to be quiet.

Dr DEAN — The only communications that came to me were conversations that occurred after the matter was made apparent by the opposition. After it went to the media and said it would not tolerate what was happening there were discussions, but not along the lines of what should or should not be inserted in the bill. The amendment was introduced because the government was forced to do it, not because it said, 'Look, I wonder if you would like to look at this legislation and let us have a chat to see what you like'. It introduced rotten legislation. The opposition went to the media and raised the matter, which forced the government to get an opinion on it. The opinion said the government was wrong, and therefore it had no alternative.

If that is what is called negotiation and discussion then the honourable member for Gippsland West has a warped view about what is discussion. The amendment has been moved because up until the time the legislation was drafted — before the Liberal Party went to the media — there was no discussion with the Liberal Party. The honourable member can shake her head, but the first time there was negotiation was after the legislation was introduced. Only when the problems were found and the Liberal Party made a fuss about it was the government forced to make changes. That had nothing to do with a decision of the government. It could have said to the opposition, 'We are going to introduce a very important bill that will have grave ramifications and we would like to talk to you about it before we draft it and introduce it into Parliament'. The opposition had to force amendments to the bill, and that is not negotiation from the point of view of the government.

Amendment agreed to.

Ms DAVIES (Gippsland West) — I move:

27. Schedule 4, lines 23 to 26, omit all words and expressions on these lines and insert —

' '(3) For the purposes of the definition of "domestic partner" in sub-section (1) —

(a) in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case;

(b) a person is not a domestic partner of another only because they are co-tenants.'.'.

The wording of this amendment is exactly the same as the wording of the previous amendments except for the addition of an extra statement that will appear in all future amendments that we still have to discuss, which is:

… a person is not a domestic partner of another only because they are co-tenants.

It is a reinforcement of the concern that we are talking about genuine domestic partnerships where people are a couple, and that people who are co-tenants should not be allocated the definition of a domestic partner.

Amendment agreed to.

Mr HULLS (Attorney-General) — I move:

6. Schedule 4, line 33, omit "in which" and insert "as a couple where".

The amendment is similar to amendment 5 but it applies to the Coroners Act.

Amendment agreed to.

Ms DAVIES (Gippsland West) — I move:

28. Schedule 4, page 38, lines 13 to 16, omit all words and expressions on these lines and insert —

' '(2) For the purposes of the definition of "domestic partner" in sub-section (1) —

(a) in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case;

(b) a person is not a domestic partner of another person only because they are co-tenants.'.'.

29. Schedule 4, page 39, after line 21 insert —

'. In section 3, after sub-section (2) **insert** —

'(3) For the purposes of the definition of "domestic partner" in sub-section (1), in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.'.'.

Amendments agreed to.

Mr HULLS (Attorney-General) — I move:

7. Schedule 4, page 39, line 30, omit "definition" and insert "definitions".

8. Schedule 4, page 39, lines 33 and 34, omit "in which" and insert "as a couple where".

Amendment 7 corrects a spelling error and amendment 8 is the same as amendments 5 and 6, except that it relates to the Health Records Act.

Amendments agreed to.

Ms DAVIES (Gippsland West) — I move:

30. Schedule 4, page 40, lines 17 to 20, omit all words and expressions on these lines and insert —

' '(3) For the purposes of the definition of "domestic partner" in sub-section (1) —

(a) in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case;

(b) a person is not a domestic partner of another person only because they are co-tenants.'.'.

This is also a schedule 4 health-related amendment.

Amendment agreed to.

Mr HULLS (Attorney-General) — I move:

9. Schedule 4, page 40, lines 26 and 27, omit "in which" and insert "as a couple where".

Amendment 9 is the same as the previous amendment but relates to the Human Tissue Act.

Amendment agreed to.

Ms DAVIES (Gippsland West) — I move:

31. Schedule 4, page 41, lines 17 to 20, omit all words and expressions on these lines and insert —

' '(4) For the purposes of the definition of "domestic partner" in sub-section (1) —

(a) in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case;

(b) a person is not a domestic partner of another person only because they are co-tenants.'.'.

Amendment agreed to; amended schedule agreed to.

Schedule 5

Mr HULLS (Attorney-General) — I move:

10. Schedule 5, lines 10 and 11, omit "in which" and insert "as a couple where".

This amendment is similar to the others but relates to the Crimes (Family Violence) Act.

Amendment agreed to.

Ms DAVIES (Gippsland West) — I move:

32. Schedule 5, page 43, lines 2 to 5, omit all words and expressions on these lines and insert —

' '(3) For the purposes of the definition of "domestic partner" in sub-section (1) —

(a) in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case;

(b) a person is not a domestic partner of another person only because they are co-tenants.'.'.

This is related to a criminal law act.

Amendment agreed to.

Mr HULLS (Attorney-General) — I move:

11. Schedule 5, page 43, line 10, omit "in which" and insert "as a couple where".

Amendment 11 is the same as the others but it relates to the Victims of Crime Assistance Act.

Dr DEAN (Berwick) — In relation to the amendment in schedule 5, page 43, the Victims of Crime Assistance Act, I ask the Attorney-General what he believes will be the impact on the Victims of Crime Assistance Act of the changes that he is making in relation to this matter.

Mr HULLS (Attorney-General) — The government believes this particular amendment will end discrimination against people based on their sexual orientation.

Dr DEAN (Berwick) — What is interesting is that this is the act that is the basis of great public concern in that victims of crime are not able to obtain referral because the government has cut funding completely for victims of crime.

Government members interjecting.

Dr DEAN — It is not rubbish at all. Because of the funding being turned off, the victims of crime assistance program has been effectively closed down by the government. There are victims of crime who are now unable to get referral. This is a matter of ongoing concern, which is why I want to know from the Attorney-General whether the amendments will in some way broaden or limit the pressure on the limited funds that already exist under the victims of crime assistance package.

Mr HULLS (Attorney-General) — It should be noted that in the last year of the Kennett government some $2.5 million was put into victims counselling services, and we are putting $6.1 million into it.

Dr Dean — Plus the compensation scheme.

Mr HULLS — Plus our compensation scheme, indeed. It should be remembered that the former Kennett government abolished compensation for pain and suffering for victims of crime. If the honourable member really wants to get into that I am happy to have that debate, because he was part of a government that abolished compensation for pain and suffering for victims.

This amendment will ensure that people are entitled to counselling services without fear or favour regardless of their sexual orientation.

Amendment agreed to.

Ms DAVIES (Gippsland West) — I move:

33. Schedule 5, page 43, lines 33 to 36, omit all words and expressions on these lines and insert —

' '(4) For the purposes of the definition of "domestic partner" in sub-section (1) —

(a) in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case;

(b) a person is not a domestic partner of another person only because they are co-tenants.'.'.

Amendment agreed to; amended schedule agreed to.

Schedule 6

Mr HULLS (Attorney-General) — I move:

12. Schedule 6, line 8, omit "in which" and insert "as a couple where".

The amendment is similar to the others but relates to the Co-operative Housing Societies Act.

Amendment agreed to.

Ms DAVIES (Gippsland West) — I move:

34. Schedule 6, lines 23 to 26, omit all words and expressions on these lines and insert —

' '(6) For the purposes of the definition of "domestic partner" in sub-section (1) —

(a) in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case;

(b) a person is not a domestic partner of another person only because they are co-tenants.'.'.

This is a schedule 6 amendment to the Co-operative Housing Societies Act 1958.

Amendment agreed to.

Mr HULLS (Attorney-General) — I move:

13. Schedule 6, page 46, lines 8 and 9, omit "in which" and insert "as a couple where".

This is similar to the others but relates to the Goods Act.

Amendment agreed to.

Ms DAVIES (Gippsland West) — I move:

35. Schedule 6, page 46, lines 28 to 31, omit all words and expressions on these lines and insert —

' '(5) For the purposes of the definition of "domestic partner" in sub-section (4) —

(a) in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case;

(b) a person is not a domestic partner of another person only because they are co-tenants.'.'.

This has the same wording as the others. It relates to the Goods Act.

Amendment agreed to.

Mr HULLS (Attorney-General) — I move:

14. Schedule 6, page 46, line 36, omit "in which" and insert "as a couple where".

This is the same as the others but relates to the Motor Car Traders Act.

Dr DEAN (Berwick) — With this amendment the insertion of the word 'couple' is an important change. I wonder whether the Attorney-General can say what the effect of that change will be. I am not sure. I repeat: the change that includes the word 'couple' does not determine what the effect on the act will be. I am not sure whether the Attorney-General has seen the opinion of Shaw; if he has not, I am happy to provide him with a copy. On page 6 of the advice Shaw states:

> In any case there does not seem to be any adequate ground to read down the words of the broader definition of domestic partner by reference to a limitation ('living as a couple') which is to be found in the narrower definition and which seems to have been intentionally omitted from the broader definition.
>
> If so, then the caring friend and Aunt Mary are each domestic partners for the purposes of the relevant acts.

This is the portion I would like the Attorney-General to look at and understand. Shaw states:

> There may also be other problems with the proposed amendments, e.g., how is any conflict between spouse and domestic partner to be resolved?

Is the Attorney-General in a position to advise the house of the other problems that Shaw, QC, refers to, in particular, 'How is any conflict between spouse and domestic partner to be resolved?'.

Mr HULLS (Attorney-General) — This is an amendment to the Motor Car Traders Act. It will ensure that people will not be discriminated against under the proposed legislation because of their sexual orientation. That relates to things such as checks on criminal records and the like.

I advise the honourable member that, yes, I do have a copy of Shaw's advice. It is interesting to note a number of the issues that have been raised by the shadow Attorney-General concerning Shaw's advice and the issues raised by Shaw. The honourable member asked what my opinion about that matter is. It is interesting to note that, while the shadow Attorney-General gives great credit to that opinion, the two amendments in his name do not seem to relate to the issues raised by Shaw.

The government also has advice from the eminent QC, Felicity Hampel, who says that there are no unforeseen consequences in relation to this legislation. So I will not give him a legal opinion now on Shaw's advice, nor would I expect him to give me a legal opinion on Hampel's advice.

Dr DEAN (Berwick) — In response to what the Attorney-General has just said, I indicate that am not asking for an opinion. I am just asking a simple question: does he know what the problems that Shaw was referring to are? The particular question Shaw asked was: how is any conflict between spouse and domestic partner to be resolved?

Mr HULLS (Attorney-General) — The government believes that issues in relation to conflict, particularly in relation to the division of property, have been addressed appropriately in the bill.

Amendment agreed to.

Ms DAVIES (Gippsland West) — I move:

36. Schedule 6, page 47, lines 13 to 16, omit all words and expressions on these lines and insert —

' '(10) For the purposes of the definition of "domestic partner" in sub-section (1) —

(a) in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in

section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case;

(b) a person is not a domestic partner of another person only because they are co-tenants.'.'.

This amendment relates to the Motor Car Traders Act.

Amendment agreed to.

Mr HULLS (Attorney-General) — I move:

15. Schedule 6, page 47, line 23, omit "in which" and insert "as a couple where".

This amendment is the same as the others but relates to the Partnership Act.

Amendment agreed to.

Ms DAVIES (Gippsland West) — I move:

37. Schedule 6, page 48, lines 2 to 5, omit all words and expressions on these lines and insert —

' '(2) For the purposes of the definition of "domestic partner" in sub-section (1) —

(a) in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case;

(b) a person is not a domestic partner of another person only because they are co-tenants.'.'.

This amendment relates to the Partnership Act.

Amendment agreed to.

Mr HULLS (Attorney-General) — I move:

16. Schedule 6, page 48, line 12, omit "in which" and insert "as a couple where".

This amendment is the same as the others but relates to the Prostitution Control Act.

Amendment agreed to.

Ms DAVIES (Gippsland West) — I move:

38. Schedule 6, page 48, lines 27 to 30, omit all words and expressions on these lines and insert —

' '(2) For the purposes of the definition of "domestic partner" in sub-section (1) —

(a) in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in

section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case;

(b) a person is not a domestic partner of another person only because they are co-tenants.'.'.

This amendment relates to the Prostitution Control Act.

Amendment agreed to.

Mr HULLS (Attorney-General) — I move:

17. Schedule 6, page 49, lines 6 and 7, omit "in which" and insert "as a couple where".

This is the same as the others but relates to the Retirement Villages Act.

Amendment agreed to.

Ms DAVIES (Gippsland West) — I move:

39. Schedule 6, page 49, lines 25 to 28, omit all words and expressions on these lines and insert —

' '(3) For the purposes of the definition of "domestic partner" in sub-section (1) —

(a) in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case;

(b) a person is not a domestic partner of another person only because they are co-tenants.'.'.

This amendment relates to the Retirement Villages Act.

Amendment agreed to.

Mr HULLS (Attorney-General) — I move:

18. Schedule 6, page 49, lines 34 and 35, omit "in which" and insert "as a couple where".

This is the same as the others but relates to the Second-Hand Dealers and Pawnbrokers Act.

Amendment agreed to.

Ms DAVIES (Gippsland West) — I move:

40. Schedule 6, page 50, lines 16 to 19, omit all words and expressions on these lines and insert —

' '(3) For the purposes of the definition of "domestic partner" in sub-section (1) —

(a) in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in

section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case;

(b) a person is not a domestic partner of another person only because they are co-tenants.'.'.

This amendment is the same as the other amendments tabled in my name and relates to Second-Hand Dealers and Pawnbrokers Act.

Amendment agreed to.

Mr HULLS (Attorney-General) — I move:

19. Schedule 6, page 50, line 24, omit "in which" and insert "as a couple where".

This is the same as the others but relates to the Trustee Companies Act.

Dr DEAN (Berwick) — I ask the Attorney-General to explain how that amendment affects the Trustee Companies Act.

Mr HULLS (Attorney-General) — It ensures that no person is discriminated against under this act based on their sexual orientation.

Agreement agreed to.

Ms DAVIES (Gippsland West) — I move:

41. Schedule 6, page 51, lines 2 to 5, omit all words and expressions on these lines and insert —

' '(5) For the purposes of the definition of "domestic partner" in sub-section (1) —

(a) in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case;

(b) a person is not a domestic partner of another person only because they are co-tenants.'.'.

It relates to the Trustee Companies Act and adds the same insertion as the other amendments.

Amendment agreed to; amended schedule agreed to.

Schedule 7

Ms DAVIES (Gippsland West) — I move:

42. Schedule 7, after line 18 insert —

'. At the end of section 4 insert —

(2) For the purposes of the definition of "domestic partner" in sub-section (1), in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case.'.'.

This amendment has the same wording as the other amendments and relates to the Equal Opportunity Act.

Amendment agreed to.

Mr HULLS (Attorney-General) — I move:

20. Schedule 7, lines 19 to 28, page 53, lines 1 to 37, page 54, lines 1 to 36 and page 55, lines 1 to 9, omit all words and expressions on these lines.

The amendment removes references to the Fair Employment Act from schedule 7 because that very important and appropriate piece of legislation was knocked off in the upper house.

Amendment agreed to.

Mr HULLS (Attorney-General) — I move:

21. Schedule 7, page 55, lines 15 and 16, omit "in which" and insert "as a couple where".

It is the same as the other amendments but relates to the Guardianship and Administration Board Act.

Dr DEAN (Berwick) — We already know its effect in relation to the inclusion of the term 'couple', but how does that impact on that act?

Mr HULLS (Attorney-General) — Again, the bill will end discrimination against people based on their sexual orientation. Under the amended act people will make decisions in relation to medical intervention and the like, and as a result people will not be discriminated against. This is appropriate legislation and an appropriate amendment.

Amendment agreed to.

Ms DAVIES (Gippsland West) — I move:

43. Schedule 7, page 55, lines 35 to 38, omit all words and expressions on these lines and insert —

' '(4) For the purposes of the definition of "domestic partner" in sub-section (1) —

(a) in determining whether persons are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 275(2) of the **Property Law Act 1958** as may be relevant in a particular case;

(b) a person is not a domestic partner of another person only because they are co-tenants.'.'.

This has the same wording as the others but relates to the Guardianship and Administration Act.

Amendment agreed to; schedule agreed to.

Title

Mr HULLS (Attorney-General) — I move:

22. Title, omit "**Bill**" and insert "**Act**".

This amends the title of the bill so that it refers to the Statute Law Amendment (Relationships) Act. Currently it refers to 'Bill'.

Amendment agreed to; amended title agreed to.

Reported to house with amendments.

Report adopted.

Third reading

House divided on motion:

Ayes, 74

Allan, Ms
Allen, Ms
Asher, Ms
Ashley, Mr
Baillieu, Mr
Barker, Ms
Batchelor, Mr
Beattie, Ms
Bracks, Mr
Brumby, Mr
Burke, Ms
Cameron, Mr
Campbell, Ms
Carli, Mr
Cooper, Mr
Davies, Ms
Dean, Dr
Dixon, Mr
Doyle, Mr
Duncan, Ms
Elliott, Mrs
Fyffe, Mrs
Garbutt, Ms
Gillett, Ms
Hamilton, Mr
Hardman, Mr
Helper, Mr
Holding, Mr
Honeywood, Mr
Howard, Mr
Hulls, Mr
Kosky, Ms
Kotsiras, Mr
Langdon, Mr (*Teller*)
Languiller, Mr
Lenders, Mr
Lim, Mr
Lindell, Ms
Loney, Mr
Lupton, Mr
McArthur, Mr
McCall, Ms
McIntosh, Mr
Maclellan, Mr
Maddigan, Mrs
Maxfield, Mr
Mildenhall, Mr
Mulder, Mr
Napthine, Dr
Nardella, Mr
Overington, Ms
Pandazopoulos, Mr
Paterson, Mr
Perton, Mr
Phillips, Mr
Pike, Ms
Richardson, Mr
Robinson, Mr
Rowe, Mr
Seitz, Mr
Shardey, Mrs
Smith, Mr (*Teller*)
Spry, Mr
Stensholt, Mr
Thompson, Mr
Thwaites, Mr
Trezise, Mr
Viney, Mr
Vogels, Mr
Wells, Mr
Leigh, Mr
Leighton, Mr
Wilson, Mr
Wynne, Mr

Noes, 9

Clark, Mr
Delahunty, Mr
Ingram, Mr (*Teller*)
Jasper, Mr
Kilgour, Mr
Maughan, Mr (*Teller*)
Ryan, Mr
Savage, Mr
Steggall, Mr

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

The SPEAKER — Order! During the division on the question that the Statute Law Amendment (Relationships) Bill be read a second time, the tellers for the ayes inadvertently missed recording the name of the honourable member for Kew. The number of ayes should therefore have been 75. I have asked the Clerk to make the necessary correction to the division list.

ELECTRICITY INDUSTRY ACTS (FURTHER AMENDMENT) BILL

Introduction and first reading

Received from Council.

Read first time on motion of Ms GARBUTT (Minister for Environment and Conservation).

Remaining business postponed on motion of Mr CAMERON (Minister for Local Government).

ADJOURNMENT

Mr CAMERON (Minister for Local Government) — I move:

That the house do now adjourn.

Housing: Moorabbin refuge

Mrs PEULICH (Bentleigh) — I raise for the attention of the Minister for Housing a number of concerns pertaining to the housing portfolio that have been conveyed to me by members of the Moorabbin community. I have already expressed some of those concerns in presenting a petition to the Parliament bearing 1600 signatures and in sending several letters to the minister conveying the concerns raised at an information day that was called to discuss with local residents the proposed establishment of a youth refuge

on the corner of Wickham Road and the Nepean Highway. The 60 or 70 residents who attended the meeting, which was held during the school holidays, were angry at the lack of information and consultation. I have met with the regional director and a ministerial adviser to discuss the concerns, and residents have asked me to call on the minister to receive a delegation to further discuss the matter and resolve the anxiety in the community.

The anxiety is significant. Some people are taking the matter so seriously that they are selling their homes. There are a number of serious issues, one of which is the proposed youth refuge. That issue has now dragged on for several months and is affecting not only my constituents but also people living in abutting electorates.

I call on the Minister for Housing to do whatever she can to expedite a decision and to meet with a delegation to resolve the matter. Many local residents are elderly, and some are not well. They deserve to be allowed to continue living their lives in peace without the anxiety caused by the minister's department and its proposal.

I ask the minister to take whatever action she can at her earliest convenience to resolve the matter.

Bridges: Cobram–Barooga

Mr JASPER (Murray Valley) — I raise a matter for the attention of the Minister for Transport, and in his absence, the Minister for Local Government. One of the critical issues for those of us who live along the border between Victoria and New South Wales is the replacement of Murray River bridges. I have raised the issue on many occasions, and honourable members will be aware that the last bridge was constructed over the Murray River between Victoria and New South Wales in 1989.

The issue has been raised previously by honourable members who live near the border, who have pressed for funding for bridges to be replaced. Five bridges were put forward for replacement under the centenary of Federation funding program and the federal government approved approximately $44 million for three bridges — at Corowa, Robinvale and Echuca. The bridge at Howlong is currently being replaced with funding from the state governments of Victoria and New South Wales. The fifth bridge on the list is the bridge between Cobram and Barooga. Extreme and strong representations have been made over a long period to get funding to replace this dilapidated bridge. Two major meetings have been held at Cobram in the past 18 months, and extensive representations have been made, including those I have made in Parliament and in correspondence to the Victorian, New South Wales and federal ministers for transport.

Early last year the New South Wales and Victorian governments, through their ministers for transport, decided to investigate the replacement of the bridge and a report was prepared. The report was presented to the Victorian minister in December last year, and I have made representations to him over the many months since then. I cannot get a response. The minister has indicated that the report is being considered, but the people living in Cobram and Barooga and surrounding areas are extremely concerned that he has the report. It is outrageous for him to hold on to the report and not release it or indicate what action will be taken by the Victorian government. There is no doubt in my mind that the report will recommend the replacement of the bridge and that major work be undertaken immediately.

I seek an assurance from the minister that he has the report and that it is being assessed. I also ask when he will respond to it. When will funding be provided and action taken to replace the bridge? I suggest to the minister that he should be looking for three-way funding from the New South Wales, Victorian and federal governments. I ask him to respond immediately to the people living in the northern part of my electorate and the surrounding areas.

Rail: Geelong service

Mr TREZISE (Geelong) — I raise for the attention of the Minister for Transport the rail service, or should I say the lack of service, currently being provided by National Express to rail commuters on the Geelong line. I realise the minister does not have direct day-to-day control over the service being provided by a private operator, so the action I seek is for the minister to investigate and advise why the service is at a completely unacceptable level when compared to the service previously provided by the public sector.

I ask the minister in investigating the issue to also take what action he can to rectify the problem. I do not raise the issue for the sake of kicking the private operator, National Express, but because on almost a daily basis I receive a complaint from either an irate commuter or a dejected employee of National Express. This is not about knocking a privatised service. I raise the issue tonight for the sole purpose of improving the service currently being supplied to rail commuters in the Geelong electorate.

The issue is important because approximately 3000 commuters travel between Geelong and

Melbourne on a daily basis. It is an important issue to the Geelong community. As a person who commuted between Melbourne and Geelong for more than eight years, I can understand people's frustration and anger at having to rely on an inadequate and unreliable service. As a former employee of V/Line, I find the current service disappointing.

Between 8 and 28 April, 117 trains on the Geelong line were late either arriving or departing. Under V/Line the carriages were completely serviced monthly. Those services are now undertaken on a three-monthly basis. If a fault occurs soon after a service it remains for three months. Customers have suffered ongoing problems with airconditioning in summer and heating in winter.

Geelong is a tourist destination, and the railway station is the gateway to the city. As a community Geelong relies on tourism.

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

Police: Bendigo schools program

Mr WELLS (Wantirna) — I raise with the Minister for Police and Emergency Services a serious matter concerning the lack of a school resource officer for the police schools involvement program in the Bendigo region, and I ask that he take immediate action to rectify the problem.

In a previous adjournment debate I referred to the number of prisoners in police cells taking up valuable police resources, as well as the need to bring in police from the outlying areas of Bendigo to run the van around the business district. School resource officers are responsible for the implementation of the police schools involvement program, which is designed to combat rising crime rates and drug and alcohol abuse by children and to build a better relationship between the police and young people in the community. The clear aims of the program also include creating in young people an understanding of the police role in society and extending the concept of crime prevention to the Victorian school system.

I am informed that the Bendigo region has had no school resource officer for more than 18 months, nor has the position been advertised. Clearly schoolchildren in the region are not meeting local police face to face. Two years ago two members of the police force went around the Bendigo schools to meet the children and discuss with them the grave issues of crime and drug and alcohol abuse. It appears that the program has floundered for no apparent reason.

All honourable members will remember that the former Chief Commissioner of Police, Neil Comrie, came into the house last month to discuss the importance of educating children about the dangers of drugs. I should have thought the Minister for Police and Emergency Services would have ensured that the police schools involvement program had a high priority.

When I visited Bendigo a couple of weeks ago I found that schools were complaining to police about the lack of services for the program while the force was saying that there were insufficient police on the beat to enable members to go into schools.

The minister should be proactive in ensuring that the problem is rectified and that young people receive the attention from the police that they deserve.

National Celtic Festival

Mr LONEY (Geelong North) — I refer the Minister for Major Projects and Tourism to the National Celtic Festival, which is to be held in Geelong from 3 to 11 June, and ask for his support by allocating funding for the event.

Mr Trezise interjected.

Mr LONEY — As the honourable member for Geelong just said, in recent times Geelong has become a tourist destination rather than just a place to pass through. That is due to the work of many people in bringing events to Geelong, promoting festivals and raising attractions in the city.

The annual Celtic folk festival is one of those attractions that many people have put a great deal of hard work into for a number of years. This year's festival will be the sixth to be held in Geelong, the first having been held in 1993 when it was called Celtfest. The title of National Celtic Festival was given to it in 1995 with the approval of the Celtic Council of Australia, the umbrella organisation for Australian Celtic organisations, which then recognised its role as the leading Celtic festival in Australia.

However, in spite of Geelong having that status, for the six occasions the festival has been held very little, if anything, has been received in the way of state or federal government funding. Because of the way the festival has been growing, it is time it was recognised and given funding so it can continue to grow.

This year overseas performers will give a much broader range of traditional performances. A film festival will be developed into a major attraction with Australian premieres of Celtic films. There are also plans for a

much more innovative and spectacular foreshore opening ceremony and an expansion of the academic poetry segments. A look at the program will show the amazing breadth of entertainment that has been put together by the festival organisers.

It is appropriate that the government now recognise that this is a leading festival. I say that not because of my own Celtic ancestry but because the National Celtic Festival has been built into a major festival in Australia. It should now be recognised, and I ask the minister to put funding towards it.

Roads: school speed limits

Ms DAVIES (Gippsland West) — I raise an issue for the Minister for Transport. I have an ongoing stream of correspondence from various primary schools in my electorate concerning the speed at which cars travel past their schools.

Bass Valley Primary School and kindergarten is in a 100 kilometres per hour zone, as is Longwarry Primary School. A letter from the school states:

> We at Longwarry have had several instances in the last few years where children's lives were endangered on the roads before and after school. It is alarming that speed was almost always a contributing factor.

A letter from Drouin South Primary School states:

> The unfortunate circumstances remain … it is very difficult for people to see vehicles travelling at 100 kilometres an hour coming around the sweeping corner.

Cardinia Primary School talks about the heavy transports using the road, where the speed zone is 80 kilometres an hour. St Joseph's Primary school in Korumburra has similar problems.

It is clear that there is a problem, but the different schools have not come to a coordinated approach on an appropriate speed limit. I therefore ask the minister to look at the concept of having a coordinated, stable policy across the state of appropriate signage for an appropriate speed for vehicles travelling past primary schools.

Some primary schools have looked into the idea of drop-down speed signs, but one quote that I had for such a sign for a small rural primary school was for $7500. I therefore ask the minister to look at a coordinated and consistent approach and to offer more assistance to make sure all schools are able to afford the speed restriction signs which will put our children and children right across the state in a safer position, particularly those from small rural primary schools where cars travel past at very high speeds.

Metropolitan areas now have speed restrictions down to 50 kilometres an hour. I ask that rural primary school students be afforded that same sort of protection.

Frankston–Flinders, Dandenong–Hastings and Denham road intersection: safety

Mr COOPER (Mornington) — I also have a matter for the attention of the Minister for Transport. It is a request that he make some time in the immediate future to accept an invitation from me to show him the very real dangers of the intersection of Dandenong–Hastings Road, also known as the Western Port Highway, with Frankston–Flinders Road and Denham Road at Tyabb.

In June 2000 I nominated this intersection for funding from the $240 million allocated to the special black spot program. The reference number of my nomination was WBS 00101. In nominating it I said that the intersection is extremely dangerous and is officially classified as a black spot intersection, with Vicroads data showing there were 14 accidents recorded at the site between 1994 and 1998. In recent weeks there have been a further two accidents at that location, fortunately neither of which resulted in loss of life. Local views — and there are a lot of them on this issue — are that a loss of life at this intersection is almost inevitable unless urgent action is taken.

The purpose of my invitation to the minister is to ensure that he has first-hand knowledge of how particularly hazardous this intersection is. Like most honourable members, I have a significant number of dangerous intersections in my electorate and I well understand the Vicroads priority program.

It is important for the minister to understand that the intersection in question has some exceptional hazards. He can only do that by coming down to view the area. This is not a loaded invitation — I would not intend to meet the minister with a barrage of local media and photographers. I simply want him to have a look at the intersection so that he can go away with a more educated view of what is needed and why it is needed now.

The intersection carries a huge amount of traffic every day, but the great danger comes at times when tourists use it as the main access to the Western Port side of the Mornington Peninsula, as a large number of tourists do. I would like the minister to treat this invitation as a matter of considerable urgency and to join me at the site in the near future.

Three petitions have been lodged in this house in recent times from a large number of concerned residents of the

Western Port district. They are asking me to do everything I can to get the minister to visit the site.

Benalla: aged care services

Ms ALLEN (Benalla) — I refer the Minister for Aged Care to the need for the provision of support services to frail, older people in my electorate and request that she indicate what action she will take to benefit my constituents.

Residents of the Benalla electorate include many older people, some of whom are quite frail but wish to remain living as independently as possible in the community. Older people have made substantial contributions to rural Victorian communities throughout their lives and many wish to remain in their communities. In order to continue living in their homes, many older people require a variety of support services.

I am aware that the home and community care program, which is funded through the minister's department, is focused on providing a range of services to people under these circumstances, and that the minister recently announced additional state government funds for the program. I ask the minister to explain what action she will be taking to assist aged residents in my electorate.

Superannuation: state scheme entitlements

Mr RICHARDSON (Forest Hill) — I raise for the attention of the Minister for Finance the government superannuation scheme and the one-off opportunity for contributors to convert 50 per cent or 100 per cent of their current superannuation entitlements into lump sums.

A constituent, Mr Paris of Vermont South, has written to me saying that as a state retiree he was offered a 50 per cent or 100 per cent conversion. He states:

> After over 40 years of service to the people of Victoria and the government of the day, I retired from the state public service in February 1992. In December 1991 I obtained from the State Superannuation Board an estimate of my superannuation entitlements …
>
> … the estimated lump sum of $157 400 in the … document almost matches the 50 per cent lump sum of $157 371.11 in the offer statement, except for it being approximately $29 higher.
>
> …
>
> … in my case, the state government is offering me lump sums, which by the end of December 2000 had already lost their purchasing power by 23.17 per cent as the moneys being offered now would be the same in my case as if they were available in December 1991. So, essentially I am being short-changed by the government by an amount of $36 462.88 if I were to accept a 50 per cent lump sum or $72 925.77 if I were to take the 100 per cent lump sum.
>
> Furthermore, as the state government proposes to pay such lump sums in July 2001, retirees who by this coming May decide to accept lump sums will be further disadvantaged if the weighted average consumer price index were to increase at the end of this quarter … and the June quarter.
>
> …
>
> … it would seem to me that millions of dollars will be siphoned off from many dedicated servants of this state by the state government …

Mr Paris then calls on me:

> … to take this matter to Parliament as soon as possible.

He then states:

> This injustice has to be stopped.

I call on the minister to investigate the matter I have raised. I will present the document to the Minister for Local Government, who is at the table, and ask him to pass it on to the relevant minister. I ask the Minister for Finance to investigate the matter, report to me and correct the error if it is there.

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

Disability services: occupational health and safety

Ms BARKER (Oakleigh) — The matter I raise for the attention of the Minister for Community Services relates to non-government disability service providers. I ask what action she will take to ensure that appropriate funding is available to provide better occupational health and safety practices for those providers and, most importantly, what action will be taken to ensure a reduction in injuries and a safer workplace.

Occupational health and safety performance in disability services delivered by the non-government sector has been declining for some years now. There has unfortunately been a 21 per cent increase in the industry rate and therefore in Workcover premiums for 2000–01. In many cases the problem can be easily identified — for example, worn floor surfaces or non-slip steps or ramps. Funding can certainly be provided for repair or renovation. However, we must start ensuring that long-term occupational health and safety practices are a normal part of the everyday service provision in the disability sector. Far more work needs to be undertaken to develop some sensible and practical strategies to ensure that not only are they there for providers in the disability sector to know and understand but also that they are implemented.

A lot more work also needs to be done in identifying how the incidence of injuries could be reduced and how the strategies can be implemented. Obviously occupational health strategies in the disability sector would reduce the industry rate and therefore lower premiums but, most importantly, there would be a safer workplace.

I congratulate the minister and the Bracks government who have resolutely gone about ensuring increased funding in the disability sector. It is certainly at much higher levels than it was previously. It has pleased me that a lot of funding has come into Oakleigh to organisations such as IMPACT, where recreational and social activities are provided, and the Oakleigh Centre for the funding of vehicles, painting, coverings for residential units and so on.

Tonight, however, I deal specifically with funding for occupational health and safety issues, equipment and training. I note that $200 000 had been set aside and that applications for that funding have been made, but with the huge amount of work that needs to be done in this area I am certain that that sum will not be enough. As I said, the issue is extremely important. The government should urgently address occupational health and safety issues in the non-government disability sector.

I ask the minister what action she will take to ensure that we have adequate attention to occupational health and safety issues in the non-government disability sector, and particularly to ensure that appropriate funding is available to see it through.

The SPEAKER — Order! The honourable member for Sandringham has 2 minutes.

EPA: vehicle emissions

Mr THOMPSON (Sandringham) — A constituent, Mr Andrew Royle of Beaumaris, has raised with me his concern regarding noise and emission pollution caused by vehicles in the local area that are not fitted with mufflers, in particular Harley Davidson motorcycles.

I had occasion to write to the Environment Protection Authority and received a reply in relation to the matter. The EPA advises that there is an ongoing enforcement program for all vehicles, including motorcycles. Its program includes roadside inspection of vehicles for noise, smoke and tampering as well as on-road spotting.

In the 1999–2000 financial year EPA and police reporting of motor vehicles resulted in the EPA issuing 239 notices for tampering, 4324 noise notices and 12 232 smoky vehicle notices. Infringements are dealt with through notices requiring the vehicle to be repaired, penalty infringement notices — on-the-spot fines — or by prosecution through the courts. Because reaction to noise is highly subjective the EPA does not consider it appropriate to take action on the basis of public reporting unless it can be corroborated by measurement by an authorised officer.

My question to the Minister for Environment and Conservation is: can she take further measures to see whether there is a mechanism whereby members of the public who are aware of persistent breaches of such regulations have the opportunity to report the matter to the EPA and the authority can take some follow-up action so there are not persistent breaches of the regulations by vehicles with removable mufflers?

The SPEAKER — Order! The honourable member for Ballarat West has 10 seconds.

Ms Overington — Apart from mentioning the minister and the item, it hardly seems worth while.

The SPEAKER — Order! The time set down for the adjournment debate has expired.

Responses

Mr CAMERON (Minister for Local Government) — The honourable member for Bentleigh raised a matter for the Minister for Housing; the honourable members for Murray Valley and Geelong raised matters for the Minister for Transport; the honourable member for Wantirna, a matter for the Minister for Police and Emergency Services; and the honourable member for Geelong North, a matter for the minister for tourism.

The honourable members for Gippsland West and Mornington raised matters for the attention of the Minister for Transport; the honourable member for Benalla, for the Minister for Aged Care; the honourable member for Forest Hill, for the Minister for Finance; the honourable member for Oakleigh, for the Minister for Community Services; the honourable member for Sandringham, for the Minister for Environment and Conservation; and the honourable member for Ballarat West started to raise a matter but did not quite get there.

I will refer all those matters to the respective ministers for their responses in the usual form.

Motion agreed to.

House adjourned 1.58 a.m. (Wednesday).