PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

5 June 2001

(extract from Book 6)

Internet: www.parliament.vic.gov.au/downloadhansard

By authority of the Victorian Government Printer

The Governor

JOHN LANDY, AC, MBE

The Lieutenant-Governor

Lady SOUTHEY, AM

The Ministry

Premier and Minister for Multicultural Affairs	The Hon. S. P. Bracks, MP
Deputy Premier, Minister for Health and Minister for Planning	The Hon. J. W. Thwaites, MP
Minister for Industrial Relations and Minister assisting the Minister for Workcover	The Hon. M. M. Gould, MLC
Minister for Transport	The Hon. P. Batchelor, MP
Minister for Energy and Resources, Minister for Ports and Minister assisting the Minister for State and Regional Development	The Hon. C. C. Broad, MLC
Minister for State and Regional Development and Treasurer	The Hon. J. M. Brumby, MP
Minister for Local Government, Minister for Workcover and Minister assisting the Minister for Transport regarding Roads	The Hon. R. G. Cameron, MP
Minister for Community Services	The Hon. C. M. Campbell, MP
Minister for Education and Minister for the Arts	The Hon. M. E. Delahunty, MP
Minister for Environment and Conservation and Minister for Women's Affairs	The Hon. S. M. Garbutt, MP
Minister for Police and Emergency Services and Minister for Corrections	The Hon. A. Haermeyer, MP
Minister for Agriculture and Minister for Aboriginal Affairs	The Hon. K. G. Hamilton, MP
Attorney-General, Minister for Manufacturing Industry and Minister for Racing	The Hon. R. J. Hulls, MP
Minister for Post Compulsory Education, Training and Employment and Minister for Finance	The Hon. L. J. Kosky, MP
Minister for Sport and Recreation, Minister for Youth Affairs and Minister assisting the Minister for Planning	The Hon. J. M. Madden, MLC
Minister for Gaming, Minister for Major Projects and Tourism and Minister assisting the Premier on Multicultural Affairs	The Hon. J. Pandazopoulos, MP
Minister for Housing, Minister for Aged Care and Minister assisting the Minister for Health	The Hon. B. J. Pike, MP
Minister for Small Business and Minister for Consumer Affairs	The Hon. M. R. Thomson, MLC
Parliamentary Secretary of the Cabinet	The Hon. G. W. Jennings

Legislative Council Committees

Economic Development Committee — The Honourables R. A. Best, Andrea Coote, G. R. Craige, Kaye Darveniza, N. B. Lucas, J. M. McQuilten and T. C. Theophanous.

Privileges Committee — The Honourables W. R. Baxter, D. McL. Davis, C. A. Furletti, M. M. Gould and G. W. Jennings.

Standing Orders Committee — The Honourables the President, G. B. Ashman, B. W. Bishop, G. W. Jennings, Jenny Mikakos, G. D. Romanes and K. M. Smith.

Joint Committees

Drugs and Crime Prevention Committee — (*Council*): The Honourables B. C. Boardman and S. M. Nguyen. (*Assembly*): Mr Cooper, Mr Jasper, Mr Lupton, Mr Mildenhall and Mr Wynne.

Environment and Natural Resources Committee — (*Council*): The Honourables R. F. Smith and E. G. Stoney. (*Assembly*): Mr Delahunty, Ms Duncan, Mr Ingram, Ms Lindell, Mr Mulder and Mr Seitz.

Family and Community Development Committee — (*Council*): The Honourables E. J. Powell and G. D. Romanes. (*Assembly*): Mr Hardman, Mr Lim, Mr Nardella, Mrs Peulich and Mr Wilson.

House Committee — (*Council*): The Honourables the President (*ex officio*), G. B. Ashman, R. A. Best, J. M. McQuilten, Jenny Mikakos and R. F. Smith. (*Assembly*): Mr Speaker (*ex officio*), Ms Beattie, Mr Kilgour, Ms McCall, Mr Rowe, Mr Savage and Mr Stensholt.

Law Reform Committee — (*Council*): The Honourables D. G. Hadden and P. A. Katsambanis. (*Assembly*): Mr Languiller, Ms McCall, Mr McIntosh, Mr Stensholt and Mr Thompson.

Library Committee — (*Council*): The Honourables the President, E. C. Carbines, M. T. Luckins, E. J. Powell and C. A. Strong. (*Assembly*): Mr Speaker, Ms Duncan, Mr Languiller, Mrs Peulich and Mr Seitz.

Printing Committee — (*Council*): The Honourables the President, Andrea Coote, Kaye Darveniza and E. J. Powell. (*Assembly*): Mr Speaker, Ms Gillett, Mr Nardella and Mr Richardson.

Public Accounts and Estimates Committee — (*Council*): The Honourables D. McL. Davis, R. M. Hallam, G. K. Rich-Phillips and T. C. Theophanous. (*Assembly*): Ms Asher, Ms Barker, Ms Davies, Mr Holding, Mr Loney and Mrs Maddigan.

Road Safety Committee — (*Council*): The Honourables Andrew Brideson and E. C. Carbines. (*Assembly*): Mr Kilgour, Mr Langdon, Mr Plowman, Mr Spry and Mr Trezise.

Scrutiny of Acts and Regulations Committee — (*Council*): The Honourables M. A. Birrell, M. T. Luckins, Jenny Mikakos and C. A. Strong. (*Assembly*): Ms Beattie, Mr Carli, Mr Dixon, Ms Gillett and Mr Robinson.

Heads of Parliamentary Departments

Assembly — Clerk of the Parliaments and Clerk of the Legislative Assembly: Mr R. W. Purdey

Council — Clerk of the Legislative Council: Mr W. R. Tunnecliffe

Hansard — Chief Reporter: Ms C. J. Williams

Library — Librarian: Mr B. J. Davidson

Parliamentary Services — Manager: Mr M. L. Bromley

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-FOURTH PARLIAMENT — FIRST SESSION

President: The Hon. B. A. CHAMBERLAIN

Deputy President and Chairman of Committees: The Hon. B. W. BISHOP

Temporary Chairmen of Committees: The Honourables G. B. Ashman, R. A. Best, R. H. Bowden, Kaye Darveniza, D. G. Hadden, P. R. Hall, Jenny Mikakos, R. F. Smith, E. G. Stoney and C. A. Strong

Leader of the Government:
The Hon. M. M. GOULD

Deputy Leader of the Government:
The Hon. G. W. JENNINGS

Leader of the Opposition:
The Hon. M. A. BIRRELL

Deputy Leader of the Opposition:
The Hon. BILL FORWOOD

Leader of the National Party:
The Hon. R. M. HALLAM to 20 March 2001
The Hon. P. R. HALL from 20 March 2001

Deputy Leader of the National Party:
The Hon. P. R. HALL to 20 March 2001
The Hon. E. J. POWELL from 20 March 2001

Member	Province	Party	Member	Province	Party
Ashman, Hon. Gerald Barry	Koonung	LP	Hall, Hon. Peter Ronald	Gippsland	NP
Atkinson, Hon. Bruce Norman	Koonung	LP	Hallam, Hon. Roger Murray	Western	NP
Baxter, Hon. William Robert	North Eastern	NP	Jennings, Hon. Gavin Wayne	Melbourne	ALP
Best, Hon. Ronald Alexander	North Western	NP	Katsambanis, Hon. Peter Argyris	Monash	LP
Birrell, Hon. Mark Alexander	East Yarra	LP	Lucas, Hon. Neil Bedford, PSM	Eumemmerring	LP
Bishop, Hon. Barry Wilfred	North Western	NP	Luckins, Hon. Maree Therese	Waverley	LP
Boardman, Hon. Blair Cameron	Chelsea	LP	McQuilten, Hon. John Martin	Ballarat	ALP
Bowden, Hon. Ronald Henry	South Eastern	LP	Madden, Hon. Justin Mark	Doutta Galla	ALP
Brideson, Hon. Andrew Ronald	Waverley	LP	Mikakos, Hon. Jenny	Jika Jika	ALP
Broad, Hon. Candy Celeste	Melbourne North	ALP	Nguyen, Hon. Sang Minh	Melbourne West	ALP
Carbines, Hon. Elaine Cafferty	Geelong	ALP	Olexander, Hon. Andrew Phillip	Silvan	LP
Chamberlain, Hon. Bruce Anthony	Western	LP	Powell, Hon. Elizabeth Jeanette	North Eastern	NP
Coote, Hon. Andrea	Monash	LP	Rich-Phillips, Hon. Gordon Kenneth	Eumemmerring	LP
Cover, Hon. Ian James	Geelong	LP	Romanes, Hon. Glenyys Dorothy	Melbourne	ALP
Craige, Hon. Geoffrey Ronald	Central Highlands	LP	Ross, Hon. John William Gamaliel	Higinbotham	LP
Darveniza, Hon. Kaye	Melbourne West	ALP	Smith, Hon. Kenneth Maurice	South Eastern	LP
Davis, Hon. David McLean	East Yarra	LP	Smith, Hon. Robert Fredrick	Chelsea	ALP
Davis, Hon. Philip Rivers	Gippsland	LP	Smith, Hon. Wendy Irene	Silvan	LP
Forwood, Hon. Bill	Templestowe	LP	Stoney, Hon. Eadley Graeme	Central Highlands	LP
Furletti, Hon. Carlo Angelo	Templestowe	LP	Strong, Hon. Christopher Arthur	Higinbotham	LP
Gould, Hon. Monica Mary	Doutta Galla	ALP	Theophanous, Hon. Theo Charles	Jika Jika	ALP
Hadden, Hon. Dianne Gladys	Ballarat	ALP	Thomson, Hon. Marsha Rose	Melbourne North	ALP

CONTENTS

TUESDAY, 5 JUNE 2001

Tuesday, 5 June 2001

The PRESIDENT (Hon. B. A. Chamberlain) took the chair at 2.07 p.m. and read the prayer.

ROYAL ASSENT

Message read advising royal assent on 29 May to:

Benefit Associations (Repeal) Act
Health Services (Health Purchasing Victoria) Act
Judicial and Other Pensions Legislation (Amendment) Act
Judicial College of Victoria Act
Liquor Control Reform (Amendment) Act
Prostitution Control (Proscribed Brothels) Act
Road Safety (Alcohol and Drugs Enforcement Measures) Act
State Owned Enterprises (Amendment) Act
Water (Amendment) Act

CORRECTIONS AND SENTENCING ACTS (HOME DETENTION) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

BUILDING (SINGLE DWELLINGS) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

HEALTH (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. M. M. GOULD (Minister for Industrial Relations).

POST COMPULSORY EDUCATION ACTS (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

CORRECTIONS (CUSTODY) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

RACING (RACING VICTORIA LTD) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

GAS INDUSTRY BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. C. C. BROAD (Minister for Energy and Resources).

GAS INDUSTRY LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. C. C. BROAD (Minister for Energy and Resources).

URBAN LAND CORPORATION (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

QUESTIONS WITHOUT NOTICE

Marine parks: establishment

Hon. PHILIP DAVIS (Gippsland) — Will the Minister for Energy and Resources confirm that the government intends to remove the property rights of all fishery licensees so they may not obtain any compensation for any matter affecting the value of their licences?

Hon. C. C. BROAD (Minister for Energy and Resources) — Honourable members will have ample opportunity to debate the bill when it comes before the house. As the honourable member is well aware, unlike the previous government on matters relating to scallops, this government will not remove from any fishers any licences relating to marine parks or any other matter.

The government believes it has put forward a fair and reasonable package to assist both commercial and recreational fishers. Indeed, I answered questions in the house about this matter the last time we sat. The government is not proposing to include compensation in the bill because it does not believe it is either appropriate or necessary when the total government package is taken into account.

Hon. Philip Davis — On a point of order, Mr President, for the minister's benefit I will repeat the question because clearly she did not hear or understand the question. I asked: will the minister confirm that the government intends to remove the property rights of all fishery licensees so they may not obtain any compensation for any matter affecting the value of their licences?

Hon. M. M. Gould — On the point of order, Mr President, it is not a point of order to re-ask the question. I ask you, Sir, to rule this point of order out of order.

The PRESIDENT — Order! The house should know the rules on answering questions. It is in order for the honourable member to raise a point of order about whether the answer has been responsive to the question, even though the answer may not be what the asker is looking for.

In this case the minister indicated a number of matters — and we have discussed this on many occasions. I think the answer was clearly responsive to the honourable member's question. The minister also advised the honourable member that these matters would come before the house shortly. I therefore believe the minister is not so far off the mark that I can rule in favour of the honourable member's point of order. I believe he will get other opportunities, so I do not uphold the point of order.

Marine parks: abalone fishery

Hon. G. D. ROMANES (Melbourne) — Will the Minister for Energy and Resources inform the house of the results of the recently completed modelling by the Marine and Freshwater Resources Institute on the impacts of proposed marine national parks on the abalone fishery?

Hon. C. C. BROAD (Minister for Energy and Resources) — I thank the honourable member for her question about this very valuable Victorian fishery that lands some 1440 tonnes of abalone annually with a total value of more than $70 million. Also, the fishery clearly contributes substantially to a number of coastal and rural Victorian communities.

Recent modelling completed by the Marine and Freshwater Resources Institute (MAFRI), Victoria's peak marine research centre, has conclusively shown that reducing the illegal take of abalone can completely offset any impact on the commercial catch of the establishment of marine national parks. The modelling indicates that reducing the illegal take by some one-third to a half would mean commercial fishing catches would not be affected by the introduction of marine national parks.

The modelling also indicates that, so long as other environmental factors remain stable, the existing commercial catch will remain constant following the establishment of marine national parks. MAFRI's modelling has been conducted with the inclusion of standard variables, which is expected, including the commercial catch, natural mortality and abalone recruitment, with the illegal take being modelled at approximately 30 per cent of the legal catch.

The government's $14 million commitment over four years to increased enforcement as part of the marine national parks package the government is putting before Parliament represents a 75 per cent increase in existing funding, which is a great deal more than was ever done by the previous government. This enforcement increase will ensure that reducing the illegal take can offset any impact on the abalone fishery's commercial catch.

It is also important to point out the total catch has been stable for the past 10 years. The government believes that is a strong indication that the fishery has been well managed and is relatively healthy. Victoria is currently a national leader in fishery enforcement with a number of recent extremely successful operations being

completed. As shown by surveys, compliance rates are above 85 per cent.

In conclusion, I indicate that the government's marine national parks package is a balanced and responsible outcome that will assist the fishing industry to adjust to the establishment of marine national parks while at the same time achieving the government's objective of better protecting our marine resources.

Marine parks: establishment

Hon. M. A. BIRRELL (East Yarra) — I direct a question to the Minister for Energy and Resources in her capacity as the minister responsible for fisheries legislation. Does the minister agree with the public comment of the Minister for Environment and Conservation that an error was made in the marine parks bill, and that that bill now needs to be amended so that all holders of fishing licences do not lose rights?

Hon. C. C. BROAD (Minister for Energy and Resources) — The government has clearly indicated its intentions on the legislation before Parliament with regard to compensation.

In response to public comment on this matter the government has also said that its intentions have not been translated in accordance with its drafting instructions and that it is the government's intention to ensure that that matter is corrected as soon as is practicable to ensure the bill clearly reflects the government's intentions.

Sport: facility programs

Hon. KAYE DARVENIZA (Melbourne West) — Given the commitment of the Minister for Sport and Recreation to improving access to sporting facilities in the community, I ask what steps he has taken to achieve this outcome.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am pleased to advise the house that Sport and Recreation Victoria has funded 249 projects across Victoria for its three main sporting facility programs. As honourable members may be aware, those three programs are: community facilities, majors; community facilities, minors; and the Better Pools program. These 249 grants are valued at a total of $12.75 million, which means that in combination with government funding at a local level and with community contributions, Victoria will enjoy a total investment in sporting infrastructure of over $48.4 million in the forthcoming financial year.

I am also pleased to advise the house that as a result of that funding, 62 major sporting facilities, 171 minor sporting facilities and 16 aquatic facilities will be constructed or redeveloped. Announcements of funding for those projects will be made in the forthcoming week.

I congratulate the local councils concerned for the good work they have done to work with their local communities in developing their proposals for funding. I thank local government officers who worked particularly hard with many community groups to get these projects funded. I also thank those councils whose proposals were unfortunately not successful. It is a competitive process, and a number of those project proposals will need refinement. I encourage those who were not successful to apply again and to work with Sport and Recreation Victoria. We look forward to funding more projects in future years.

Snowy River

Hon. P. R. HALL (Gippsland) — I refer the Minister for Energy and Resources to table B10 headed 'Output initiatives — Department of Natural Resources and Environment' appearing on page 259 of budget paper 2. I refer in particular to a line item labelled 'Restoration of environmental flows to the Snowy River' and note an allocation under the column for 2000–01 — that is, in last year's budget — of $40 million. I ask the minister how much extra water was diverted to flows down the Snowy River as a result of the $40 million the government claimed to have spent last year in this area.

Hon. C. C. BROAD (Minister for Energy and Resources) — I do not have that particular page of the budget papers in front of me. However, I am more than happy to take this opportunity to outline the government's commitments and actions to restore environmental flows to the Snowy River, as I have done on many previous occasions.

The government has clearly stated that in preparing for the release of environmental flows to the Snowy River it is necessary to conduct a whole series of works to ensure that when the environmental flows are released, they will have the maximum beneficial impact. In addition, it is also the case in relation to committing funds to those environmental works which need to be conducted and ongoing, it is also the case that the government has needed to make provision for financial impacts on the Snowy Hydro Corporation which are not related to environmental works in the Snowy River or related to — —

Honourable members interjecting.

The PRESIDENT — Order! I am finding it hard to hear the minister. I ask honourable members on my left to desist to allow the minister to finish her answer.

Hon. C. C. BROAD — As I was indicating, in addition to the funding for environmental works for the Snowy River and to the irrigation works which account for the bulk of the funding, the government has also needed to make provision for financial impacts on the Snowy Hydro Corporation which are not related to either irrigation or the Snowy River works. That accounts for the sum total of the government's financial commitment to the Snowy River.

Rural Victoria: climate change

Hon. D. G. HADDEN (Ballarat) — Will the Minister for Energy and Resources inform the house what action the government has taken to ensure Victorian rural and regional communities are better informed about the impact of climate change?

Hon. C. C. BROAD (Minister for Energy and Resources) — World Environment Day is a particularly appropriate day to be considering the impacts of climate change, particularly on country and regional Victorians into the future. The government considers climate change caused by the greenhouse effect to be one of the most important environmental challenges facing Victoria.

This government accepts the recent findings of the third assessment report of the intergovernmental panel on climate change and recognises that Victoria must play its part in national and global efforts to reduce the emissions of greenhouse gases that are driving the enhanced greenhouse effect.

At the federal level the ambiguous messages and internal tensions over greenhouse policy and the Howard government's response to the United States announcement to disassociate itself from the Kyoto protocols have been, to say the least, disappointing.

In contrast, in recognition of the very serious impacts associated with the greenhouse and climate warming for Victoria, the Bracks government has committed some $450 000 in funding to the Commonwealth Scientific and Industrial Research Organisation over three years for research into climate change impacts and adaptation, focusing on Victoria and its regional areas. The funding is being targeted to areas of highest concern and priority, including research needs in the areas of agriculture, water resources, coastal and alpine zones and biodiversity. Through the Department of Natural Resources and Environment the government is also working to ensure that Victorian government research institutes are engaged as partners in this very important research effort. Through this targeted funding it is hoped people and businesses across Victoria, particularly in rural Victoria, can make investment decisions for the future on the best possible advice.

As part of its broader response to the greenhouse issue, the Bracks government is committed to developing a comprehensive response to global climate change in the form of the Victorian greenhouse strategy to be announced later this year.

Electricity: generation plant

Hon. PHILIP DAVIS (Gippsland) — Continuing on the theme of concern for the environment and the greenhouse effect, I direct a question to the Minister for Energy and Resources. Recent announcements regarding proposed peaking gas-fired turbine generators indicate that a second-hand plant is likely to be installed. Will the minister confirm that all emissions from this plant will comply with Environment Protection Authority standards?

Hon. C. C. BROAD (Minister for Energy and Resources) — I am very pleased that the honourable member has drawn attention to the investment proposals for peaking plant in Victoria, which this government has worked extremely hard to facilitate, in contrast to the previous government, which failed to do anything about facilitating investment in much-needed additional peaking-plant capacity in this state.

At all times in facilitating the proposed new investment the government has made it very clear that these proposals must go through the necessary planning processes, including Environment Protection Authority approvals — and that is indeed what is being done.

Industrial relations: long service leave

Hon. R. F. SMITH (Chelsea) — Will the Minister for Industrial Relations inform the house what her department is doing to advise members of the public about their long service leave entitlements and what success there has been with the recovery of unpaid long service leave over the past 12 months?

Hon. M. M. GOULD (Minister for Industrial Relations) — I thank the honourable member for his question; I know he continues to show a keen interest in ensuring that employees receive their entitlements.

As I reported to the house in May of last year, Industrial Relations Victoria (IRV) has a responsibility for long

service leave matters. There is a very high level of demand from employers and employees for information regarding long service leave entitlements. I am advised that in the 12 months ending May this year IRV has responded to an average of over 300 calls a month. As a result of the information and advice provided by IRV many workers receive long service leave entitlements that would otherwise not be provided to them.

In the financial year so far — in the past 10 months — Industrial Relations Victoria has been able to recover $89 416 for employees in long service leave entitlements. The large number of inquiries IRV receives just in regard to long service leave is an indication of the high demand from employers and workers for information about minimum terms of employment and conditions.

The additional services I announced to the house in the last sitting week that the government has recently agreed to allocate to provide information and support services to Victorians will help meet that demand so that employees get entitlements they are due and get them in a timely manner.

Gas: Creswick supply

Hon. BILL FORWOOD (Templestowe) — I refer the Minister for Energy and Resources to the government's decision to put nearly $2 million of Regional Infrastructure Development Fund funds towards connecting natural gas to the Bellarine Peninsula and further to the petition bearing over 500 names recently presented to this house on behalf of the people of Creswick by an honourable member for Ballarat Province. Will the government consider an approach from Creswick residents for the use of RIDF funds to help connect natural gas?

Hon. C. C. BROAD (Minister for Energy and Resources) — I well recall, and I am sure honourable members opposite also recall, that extending the supply to the Bellarine Peninsula was an election commitment, a commitment this government is pleased to honour. In relation to ongoing extensions of the gas network and the excellent work the Honourable Dianne Hadden has done on behalf of her constituents, I well remember debating at length the procedures and processes that must be gone through for proposals to be considered under the Regional Infrastructure Development Fund, for which I am not responsible — and I am quite sure the responsible minister would not entertain my making commitments on his behalf — and the fund is open to such proposals being put before it provided they have the support of the local government area concerned. I am sure the proposal would be considered in the normal course of events. I am encouraged by the work the Honourable Dianne Hadden has undertaken to date regarding the Creswick area. That is proceeding well under current arrangements quite recently approved by the Regulator-General

Small business: Bendigo expo

Hon. E. C. CARBINES (Geelong) — Will the Minister for Small Business provide the house with an example of how the Bracks government is supporting the small business community in regional Victoria?

Hon. M. R. THOMSON (Minister for Small Business) — Last Wednesday I was fortunate enough to be able to open the Bendigo Business Expo, at which Mr Best was present. It was a fantastic expo and there was a lot of excitement about it on the day. It had a jungle theme — it is a jungle out there — with new and innovative ways for small business operators to grow their businesses.

The expo included 36 business briefing sessions on a wide variety of topics. In addition there were a further three business workshops and three keynote presentations. In fact, a record crowd of more than 2600 people from wide-ranging areas surrounding the Bendigo district attended the expo. The government was pleased to be one of the sponsors of the event, and it supports any chance to showcase small business and provide information for small businesses in regional Victoria.

I was also able to talk to some businesses about the Victorian Industry Participation Policy initiative, known as VIPP, which will be a great asset to regional Victorian businesses because it will bring local content into the tendering process for government contracts.

During the expo I conducted a Listening to Small Business program that was attended by more than 15 small business operators, at which we talked about issues of concern to them. If the federal government had taken the same attitude it would not have made the mistakes it did with the GST and business activity statements.

I was pleased to be associated with the expo, which was fantastic for the businesses that participated, and the government looks forward to being a partner in local expos being organised in regional Victoria that showcase small businesses and provide the information they need to ensure they are able to meet the challenges ahead.

QUESTIONS ON NOTICE

Answers

Hon. M. M. GOULD (Minister for Industrial Relations) — By leave, I move:

That so much of the standing orders as require answers to questions on notice to be delivered verbally in the house be suspended for the sitting of the Council this day and that the answers enumerated be incorporated in *Hansard*.

Motion agreed to.

Hon. M. M. GOULD — The question numbers are: 1690–2, 1694–1701, 1704, 1707–17, 1719, 1721, 1723, 1725–7, 1731, 1733–4, 1743, 1746, 1748–50, 1753–4, 1761, 1770–1.

BUSINESS OF THE HOUSE

Sessional orders

Hon. M. M. GOULD (Minister for Industrial Relations) — I move:

That so much of the sessional orders be suspended as would prevent new business being taken after 8.00 p.m. during the sitting of the Council this day.

Motion agreed to.

BLF CUSTODIAN

51st report

Hon. M. M. GOULD (Minister for Industrial Relations) presented report dated 31 May 2001 given to Mr President pursuant to section 7A of the BLF (De-recognition) Act 1985 by the custodian appointed under section 7(1) of that act.

Laid on table.

LAW REFORM COMMITTEE

Legal services in rural and regional Victoria

Hon. D. G. HADDEN (Ballarat) presented report, together with appendices and minutes of evidence.

Laid on table.

Ordered that report and appendices be printed.

Theatres Act

Hon. D. G. HADDEN (Ballarat) presented report, together with appendices and minutes of evidence.

Laid on table.

Ordered that report and appendices be printed.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 6

Hon. M. T. LUCKINS (Waverley) presented *Alert Digest* No. 6 of 2001, together with appendices.

Laid on table

Ordered to be printed.

Alert Digest No. 7

Hon. M. T. LUCKINS (Waverley) presented *Alert Digest* No. 7 of 2001, together with appendices.

Laid on table

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Casino (Management Agreement) Act 1993 — Authorised changes to Drawings relating to Crown Limited's Second Hotel Tower pursuant to section 16(2) of the Act (18 papers).

Financial Management Regulations 1994 — Order in Council of 24 April 2001, increasing the maximum amount which the Metropolitan Ambulance Service Royal Commission is authorised to incur.

La Trobe University — Report, 2000 (*in lieu of that tabled on 1 May 2001*).

National Parks Act 1975 — Advice of National Parks Advisory Council to Minister on proposed excision of land from existing parks into various marine national parks.

Planning and Environment Act 1987 — Notices of Approval of the following amendments to planning schemes:

Baw Baw Planning Scheme — Amendment C14.

Bendigo Planning Scheme — Amendment C10.

Brimbank Planning Scheme — Amendment C30.

Darebin Planning Scheme — Amendment C30.

Hobsons Bay Planning Scheme — Amendment C9 Part 2.

Indigo Planning Scheme — Amendment C5 Part 1.

Melbourne Planning Scheme — Amendment C12.

Moorabool Planning Scheme — Amendment C7.

Whitehorse Planning Scheme — Amendment C22.

Yarra Planning Scheme — Amendment C27.

Psychologists Registration Board — Report, 2000.

Residential Tenancies Bond Authority — Report, 1999–2000.

Statutory Rules under the following Acts of Parliament:

Evidence Act 1958 — No. 42.

Fisheries Act 1995 — No. 43.

Health Act 1958 — Nos. 40 and 41.

Mental Health Act 1986 — No. 45.

Psychologists Registration Act 2000 — No. 46.

Road Safety Act 1986 — No. 47.

Wildlife Act 1975 — No. 44.

Subordinate Legislation Act 1994 — Ministers' exemption certificates under section 9(6) in respect of Statutory Rules Nos. 43, 45 and 46.

Proclamations of His Excellency the Governor in Council fixing operative dates in respect of the following Acts:

Racing and Betting Acts (Amendment) Act 2001 — Sections 3 to 9, 13, 24 to 26 and Part 3 (except for section 35) — 31 May 2001 (*Gazette G22, 31 May 2001*).

Transport Accident (Amendment) Act 2000 — Sections 34 and 35 — 1 July 2001 (*Gazette G22, 31 May 2001*).

GAS INDUSTRY BILL

Second reading

Hon. C. C. BROAD (Minister for Energy and Resources) — I move:

That this bill be now read a second time.

This bill represents a further step in the government's commitment to introduce competition in the sale of gas to domestic and small business customers, thus creating a fully competitive retail market in the Victorian gas industry for the benefit of all Victorians. To that end, in the last session provisions were enacted that introduced a comprehensive consumer safety net comprising mandatory standing offers for gas supply, deemed contracts to protect customers who choose to take no action, provision of minimum terms and conditions for inclusion in customer contracts and delivery of community service obligations. Additionally a reserve power for the government to regulate retail prices was then created, consistent with the model already applying to the electricity industry in Victoria. This bill contains further provisions to facilitate the introduction of competition, being for the most part provisions that provide for the processes, procedures, systems and other matters required so that customers may elect to purchase gas from different retailers and also to allow settlement of trades on the Victorian wholesale gas spot market.

Additionally, and consistent with what was done last year for the electricity industry, this government has carried out a review of the legislative framework that governs the gas industry. This framework was inherited from the previous government. As a result of that review it has been determined that it is appropriate to separate out into a new act the regulatory provisions required for ongoing regulation of the gas industry.

There are thus two bills before the house. This bill, which is the bill for the Gas Industry Act 2001, is the act that contains the provisions required for ongoing regulation of the gas industry. The second bill is the bill for the Gas Industry Legislation (Miscellaneous Amendments) Act 2001. These two bills represent conjoint or cognate legislation.

The existing Gas Industry Act 1994 will be amended by the Gas Industry Legislation (Miscellaneous Amendments) Act 2001 to remove from it the regulatory provisions transferred to the Gas Industry Act 2001. Additionally, the Gas Industry Act 1994 will be renamed as the Gas Industry (Residual Provisions) Act 1994.

As you will appreciate from what I have just said, the model for this legislative reform is consistent with that adopted last year for the electricity industry. In particular, the outcome of the reform will be that there will be the Gas Industry Act 2001 that contains the regulatory provisions and the Gas Industry (Residual Provisions) Act 1994 that contains provisions that were, for the most part, used by the previous government to restructure the gas industry in Victoria.

The Gas Industry Legislation (Miscellaneous Amendments) Act 2001 contains the detailed miscellaneous amendments required for the restructuring of the legislation. They are contained in this separate act to avoid the Gas Industry Act 2001 being cluttered with those provisions. Again this approach is consistent with that adopted for the electricity legislation reform last year.

There are significant advantages to this reform of legislation. As was said in the context of the electricity legislation (and which is equally applicable to gas), the restructuring sends a clear message to industry and

other interested parties that Victoria has moved to the stage of oversight of a private industry — one that provides an essential service. It is also consistent with the implementation of full retail competition in Victoria and the focus that places on the regulation of the gas industry for the benefit of all Victorians.

Because much of the Gas Industry Act 2001 represents a re-enactment of regulatory provisions that were previously contained in the Gas Industry Act 1994, I do not propose to address this house in detail on those re-enacted provisions. However, honourable members may wish to note that in the explanatory memorandum to the bill for the Gas Industry Act 2001 a note has been made of whether a particular provision is a re-enactment. This is in addition to section 24 of the Gas Industry Legislation (Miscellaneous Amendments) Act 2001 which enacts a schedule of re-enacted provisions. The explanatory memorandum also attempts to draw attention to any material differences between a re-enacted provision and its predecessor in the Gas Industry Act 1994.

Insofar as the Gas Industry Act 2001 contains provisions that are new — in the sense that they were not previously in the Gas Industry Act 1994 — those provisions fall into two principal groups.

Firstly, as I mentioned earlier, there are provisions facilitating further the implementation of gas full retail competition in Victoria. Those appear in division 2 of part 4 of the Gas Industry Act 2001 and, for the most part, provide for the development and approval of retail gas market rules. These rules will provide for the processes, procedures, systems and other matters required so that customers may elect to purchase gas from different retailers and also to allow settlement of the wholesale gas market. The retail gas market rules must be consistent with high level principles which are to be set by order in council. The act also provides a mechanism for cost recovery on the part of industry in relation to the implementation and operation of the retail gas market rules. Overall, the provisions put in place a statutory framework within which industry, government and the Office of the Regulator-General can develop and implement the systems and processes required for gas full retail competition.

Secondly, there are certain miscellaneous provisions many of which are consequential or incidental to the implementation of full gas retail competition which appear in division 2 of part 3 of the Gas Industry Act 2001. These include a provision that allows for the grant of limited exclusive gas franchises consistently with the franchising principles contained in the natural gas pipelines access agreement of 1997 between the states and territories and the commonwealth. And there is a provision contained in division 4 of part 3 of the act that echoes a similar provision in the bill for the Electricity Industry Acts (Further Amendment) Bill 2001 and which provides for deemed contracts between customers and their gas distributors.

Apart from the above amendments there are certain other miscellaneous amendments contained in the Gas Industry Act 2001. As I said before, the explanatory memorandum attempts to provide a road map to those amendments particularly where they represent a difference from what was in the Gas Industry Act 1994. Of these, I would draw honourable members' attention to the fact that certain amendments — mostly of a technical nature — are being made to the significant producer provisions contained in part 5 of the bill. These amendments arise from experience of the working of that part over time and, among other things, seek to better provide for interested parties to make submissions on competition notices and proposed orders to be made by the Office of the Regulator-General under that part. They also clarify the operation of the competition rule in the part so that it applies both to discrimination by significant producers between gas retailers as well as against those retailers.

Additionally — and again consistently with what was done last year for the Electricity Industry Act 2000 — the cross-ownership provisions in part 6 of the Gas Industry Act 2001 are being amended. Part 6 enforces the separation of gas production, transmission, distribution and retailing in Victoria by imposing a set of cross-ownership prohibitions. As with the model formerly applying in electricity, the model for gas set up by the previous government is such that both the Office of the Regulator-General and the Australian Competition and Consumer Commission could adjudicate on whether there should be exemptions from the prohibitions in that part. But both regulators would be applying the same test, so effectively one has two regulators doing the same job. The amendments made to this part remove this regulatory duplication — for the same reason as it was removed in electricity — and provide that if a person obtains from the Australian Competition and Consumer Commission the necessary approval for an acquisition or merger, that suffices as an exemption from the prohibitions in the part. However, the exemption power does not come into force until 1 July 2002, this date being unchanged.

Statement under section 85(5) of the Constitution Act 1975

I wish to make a statement pursuant to section 85(5) of the Constitution Act 1975 of the reason for altering or varying that section by the bill.

Section 235 of the bill states that it is the intention of sections 54, 84, 113, 188, 189 and 213 to alter or vary section 85 of the Constitution Act 1975.

Section 54 provides that a person may not bring civil proceedings in respect of a matter arising under division 1 of part 4 of the Gas Industry Act 2001 except in accordance with that division. Division 1 provides for the market and system operation rules that govern the Victorian gas wholesale market. Section 54 distinguishes between civil penalty provisions in the rules that are classified as such by the Gas Industry (MSO Rules) Regulations 1999 and conduct provisions in the rules. Only the Australian Competition and Consumer Commission may bring civil proceedings in respect of a civil penalty provision to recover the penalty amount specified in the regulations. However, anyone can bring civil proceedings in respect of conduct provisions in the rules. Section 54 further provides that it does not limit the bringing of civil proceedings if the cause of action arises, or relief or remedy is sought, on grounds that do not rely on the division.

The first reason for limiting the jurisdiction of the Supreme Court with respect to this section is to ensure that it is only the commission that can enforce the civil penalty provisions which are provisions that, if breached, result in the imposition of pecuniary penalties. The second reason for so limiting the jurisdiction of the Supreme Court is to ensure that actions for breach of the conduct provisions are brought in accordance with the scheme established by the other provisions of the division and not otherwise. Those other provisions provide for injunctions, damages and declaratory relief in the Supreme Court and other courts.

Section 84 provides that no administrative law review, either under the Administrative Law Act 1978 or at common law, may occur, or relief be granted by the Supreme Court, in respect of a decision or process leading to a decision by the Regulator-General with respect to a competition notice. Section 113 provides that no proceedings may be brought in respect of a decision or determination of the Regulator-General, or of an appeal tribunal, or in respect of any process leading to a decision or determination, except as provided under part 5 of the Gas Industry Act 2001.

The reason for limiting the jurisdiction of the Supreme Court in the manner referred to in sections 84 and 113 is that the bill provides for a specialist appeals tribunal to hear appeals in certain matters arising under part 5. The commercial nature of the industries to be regulated requires that appeals be heard and decided as quickly as possible. It is considered that this specialist appeals mechanism would satisfy the requirements for appellants to be given a fair hearing and for a considered decision on any appeals to be made. An aggrieved party may apply to the Supreme Court for a review of a decision of the appeal panel on certain limited grounds.

Sections 188 and 189 are provisions that confer immunity from suit in respect of directions given by Vencorp both for those giving the directions, including Vencorp, and those acting pursuant to them. Vencorp may, under division 4 of part 8, give such directions to facilitate reliability of gas supply in the interests of public safety or to facilitate the security of the gas transmission or distribution systems. Section 213 provides for immunity from suit for any person acting in good faith in the execution of part 9 of the Gas Industry Act 2001 or any proclamation, direction, prohibition or requisition under that part. Part 9 contains the gas supply emergency provisions.

The reason for limiting the jurisdiction of the Supreme Court by these three sections is to ensure that persons acting under both parts in emergency situations are immune from suit. These people are acting in the public interest. It is vital that those charged with the responsibility for preserving system security have the confidence to respond to any emergency free from the risk of personal or corporate liability. This immunity provision is founded directly in the public interest and in the need to ensure that the relevant person or corporation and third parties involved have confidence to protect the public interest.

I commend the bill to the house.

Debate adjourned for Hon. PHILIP DAVIS (Gippsland) on motion of Hon. P. A. Katsambanis.

Debate adjourned until next day.

GAS INDUSTRY LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

Second reading

Hon. C. C. BROAD (Minister for Energy and Resources) — I move:

That this bill be now read a second time.

There are presently two bills before the house. This bill is the bill for the Gas Industry Legislation (Miscellaneous Amendments) Act 2001. The second bill, which is the bill for the Gas Industry Act 2001, is the bill for the act that contains the provisions required for ongoing regulation of the gas industry. These two bills represent conjoint or cognate legislation.

The existing Gas Industry Act 1994 will be amended by the Gas Industry Legislation (Miscellaneous Amendments) Act 2001 to remove from it the regulatory provisions transferred to the Gas Industry Act 2001. Additionally, the Gas Industry Act 1994 will be renamed as the Gas Industry (Residual Provisions) Act 1994.

The model for this legislative reform is consistent with that adopted last year for the electricity industry. In particular, the outcome of the reform will be that there will be the Gas Industry Act 2001 that contains the regulatory provisions and the Gas Industry (Residual Provisions) Act 1994 that contains provisions that were, for the most part, used by the previous government to restructure the gas industry in Victoria.

The Gas Industry Legislation (Miscellaneous Amendments) Act 2001 contains the detailed miscellaneous amendments required for the restructuring of the legislation. They are contained in this separate act to avoid the Gas Industry Act 2001 being cluttered with those provisions. Again this approach is consistent with that adopted for the electricity legislation reform last year.

There are significant advantages to this reform of legislation. As was said in the context of the electricity legislation (and which is equally applicable to gas), the restructuring sends a clear message to industry and other interested parties that Victoria has moved to the stage of oversight of a private industry — one that provides an essential service. It is also consistent with the implementation of full retail competition in Victoria and the focus that places on the regulation of the gas industry for the benefit of all Victorians.

I will now briefly address the amendments contained in the Gas Industry Legislation (Miscellaneous Amendments) Act 2001.

The amendments in the bill divide into two groups.

First, there are amendments which are transitional or consequential on the restructuring of the legislation and the separation out into the Gas Industry Act 2001 of the ongoing regulatory provisions.

These amendments mostly involve either repeal of regulatory provisions that are henceforth to be contained in the Gas Industry Act 2001 or the amendment of references in various acts so that either ‘Gas Industry Act 2001’ or ‘Gas Industry (Residual Provisions) Act 1994’ is substituted for ‘Gas Industry Act 1994’ Additionally, the opportunity has been taken to update definitions to be consistent with what now appears in the Gas Industry Act 2001. There has also been the substitution of a new simple regulation-making power in the Gas Industry Act 1994 as many of the previous regulatory heads of power more accurately related to Gas Safety Act matters and have since been dealt with under that act.

Furthermore, section 24 of the bill introduces a new schedule 5 into the Gas Industry Act 1994, which contains savings and transitional provisions. This schedule includes a table of re-enacted provisions which enable a comparison between what was the former regulatory provision of the Gas Industry Act 1994 and its successor provision in the Gas Industry Act 2001.

In addition, a new division 2B is inserted in the Gas Industry Act 1994. Those provisions provide for the facilitation of gas full retail competition, in particular the development and approval of retail gas market rules. This division replicates the provisions contained in division 2 of part 4 of the Gas Industry Act 2001 to provide for their earlier operation given it is intended that the bulk of the Gas Industry Act 2001 not commence until 1 September 2001. Division 2B will be repealed on 1 September 2001, along with the rest of part 4A of the Gas Industry Act 1994.

The second group of amendments are not related to the restructuring of the legislation and there are only two of any real significance. The first is an amendment to the Gas Pipelines Access (Victoria) Act 1998 so as to allow certain saved provisions of the Victorian third-party access code for natural gas pipeline systems to be updated to match developments in the national code. These saved provisions are transitional in nature and were introduced as part of the transition from the Victorian code to the national code. However, a need has arisen for their updating as they continue to apply until the end of 2002 for certain access arrangements. The second involves miscellaneous amendments to the Electricity Industry Act 2000 to conform certain provisions in that Act to improved drafting in similar provisions in the Gas Industry Act 2001.

I commend the bill to the house.

Debate adjourned for Hon. PHILIP DAVIS (Gippsland) on motion of Hon. P. A. Katsambanis.

Debate adjourned until next day.

GAS INDUSTRY BILL and GAS INDUSTRY LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

Concurrent debate

Hon. C. C. BROAD (Minister for Energy and Resources) — By leave, I move:

That this house authorises and requires the Honourable the President to permit the second-reading debates on the Gas Industry Bill and the Gas Industry Legislation (Miscellaneous Amendments) Bill to be taken concurrently.

Motion agreed to.

BUILDING (SINGLE DWELLINGS) BILL

Second reading

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

That this bill be now read a second time.

The main purpose of this bill is to amend the Building Act 1993 in relation to the siting and design of single dwellings.

The proposed amendments to the Building Act will form part of the package implementing the government's new residential code for Victoria, known as Rescode.

The government's pre-election policy made two important commitments in respect to residential planning:

that communities should be provided with a choice of well-designed housing; and

that at the same time, the character of Victoria's streets, suburbs and towns should be protected.

On 13 December 1999, the *State Planning Agenda — A Sensible Balance* was launched outlining the details of the actions for the government's vision of a fairer planning system that produces better, more efficient and more reliable results. The agenda showed that the government was moving immediately to restore a sensible balance to planning in Victoria. A key action outlined within the agenda was the production of a new comprehensive residential code for Victoria.

Since coming into office, the government has already honoured pre-election commitments by:

setting in place the consultative process for and producing a draft of the proposed new comprehensive residential code;

making neighbourhood character a key consideration for medium density housing applications;

introducing an interim measure enabling councils to remove the 7-kilometre radius concessions provided by the *Good Design Guide*;

introducing an interim measure enabling councils to require planning permits for single dwellings on lots less than 500 square metres;

introducing height limit controls around the bay;

introducing a requirement for restrictive covenants to be considered in planning decisions;

improving and clarifying requirements for consistency between building permits and the planning scheme and planning permits;

introducing an improved process for the approval of building permits for demolition;

introducing tougher penalties for breaches of planning law.

The new comprehensive residential code will replace the previous government's residential development controls, the *Good Design Guide for Medium-Density Housing* and the *Victorian Code for Residential Development — Subdivision and Single Dwellings* (Viccode 1), and will make neighbourhood character the mandatory starting point for assessment of development applications. The new code will fulfil the government's pre-election policy commitments in respect to providing a choice of well-designed housing and protecting the character of Victoria's streets, suburbs and towns.

A consultation draft of the new residential code, known as Rescode, was released by the government in June 2000. This consultation draft was preceded by preliminary consultation workshops with stakeholders in March and April 2000. After the release of the consultation draft information sessions were held prior to the closing date for submissions on the consultation draft code. An advisory committee considered and held hearings in respect to the submissions received. The report of the advisory committee was publicly released in January of this year and road-testing of the advisory

committee's model for the new residential code was held in the first quarter of this year. The proposed new residential code and the associated statutory implementation tools are being developed taking into consideration this extensive consultation.

The road-testing consultations identified that a simple approval process was needed to implement the advisory committee's recommendation for single dwellings to be subject to additional controls to protect amenity, character and the environment. The building regulations were strongly supported as the appropriate location for such additional controls.

This bill is an important component of the proposed new comprehensive residential code and is one of the key steps in implementing the new code. The bill will enable improved residential provisions to be applied to single dwellings that do not require a planning permit through the existing building permit application system. The improved residential provisions will address the protection of the amenity of dwellings and will enable regard to neighbourhood character to be given where applicable.

In introducing the bill, the government is demonstrating its commitment to implementing a new comprehensive residential code and to continually improve the planning and building systems.

This bill will amend the Building Act 1993 to provide:

that the minister may issue guidelines relating to the siting and design of single dwellings;

that the guidelines may provide for the matters that a responsible authority is required to consider as a reporting authority in reporting on or considering to consent to an application to vary a siting and design standard for a building permit for the construction of a single dwelling;

the range of matters that the guidelines may include;

that the decision or report of the relevant reporting authority on an application to vary a siting and design standard forms part of the decision under appeal where there is an appeal against the refusal of a building permit or the imposition of a condition on a building permit on the basis of the guidelines.

additional regulation-making powers;

that where a reporting authority is required to provide a report and consent it must have regard to the guidelines, and undertake procedures in considering such matters;

a right of appeal to the Building Appeals Board against the failure of a responsible authority as the reporting authority to consent or refuse to consent to an application within the prescribed time.

I commend the bill to the house.

Debate adjourned on motion of
Hon. P. A. KATSAMBANIS (Monash).

Debate adjourned until next day.

RACING (RACING VICTORIA LTD) BILL

Second reading

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

That this bill be now read a second time.

This bill amends the Racing Act 1958 and other acts in order to recognise a new governing body for the thoroughbred racing code in Victoria.

This is an historic moment — not only for the Victorian racing industry but for all Victorians.

Racing is a fundamental and important part of this state's identity.

It is important — not only because of the glamour and spectacle associated with the big events, such as the Melbourne Cup and the rest of the Spring Racing Carnival — but because of the enormous economic, cultural and employment benefits thoroughbred racing brings to this state.

It is important because it injects $1.2 billion into the Victorian economy each year, directly creates over 16 000 jobs — two-thirds of which are in country Victoria — and attracts more than 100 000 tourists each year to carnival events.

And above all, it is important because it is the lifeblood of so many rural and regional communities spread throughout country Victoria.

It is for all of these reasons that it is essential that the body vested with the powers to govern racing in Victoria should be independent; accountable; willing to listen to the people who keep the industry ticking; and totally committed to the task of developing, encouraging, promoting and managing the conduct of thoroughbred racing in this state.

While the Victoria Racing Club (VRC) has very successfully governed racing for over one hundred

years, it has commendably acknowledged that its club-based structure is not the ideal model for advancing the long-term future prosperity of the industry.

It is now time for the VRC to hand over the industry governance reins to a new not-for-profit company to be known as Racing Victoria Ltd. This bill facilitates that process.

This bill ensures that Racing Victoria Ltd will be a truly independent body with the expertise to carry the racing industry galloping into the 21st century.

This bill ensures that there is proper consultation with the people who drive the industry: the trainers, the jockeys, the owners, the breeders, the stable hands and the bookmakers.

This bill ensures that the voices of country racing are heard.

This bill ensures that women and young people are encouraged to participate in the racing industry.

This bill ensures that the integrity of the Victorian racing industry is maintained by recognising that the governing body is not for sale.

The establishment of Racing Victoria Ltd is the culmination of an extensive consultation process undertaken by this government since it came to office.

It is the result of a process which formally commenced in October 1999 when the VRC announced its intention to transfer its industry governance function to a new body.

In May 2000, the VRC presented to the government its preferred model for the new governance structure. This model was subsequently reviewed by a jointly appointed government and industry advisory panel.

The advisory panel, comprising Michael Duffy, Ron Beazley, Kate McAllister-Joel, Rod Fitzroy, Kevin Hayes and George Corones, was established to advise both the government and the industry and to make recommendations with respect to the preferred governance structure for the thoroughbred racing industry.

Part of the advisory panel's task was to consult with the industry, including its stakeholders and industry bodies, and the general public. The panel also reviewed the structures in place in other jurisdictions, both in Australia and overseas, and obtained expert advice where necessary from the legal, business and wider sporting communities.

After four months of rigorous debate, after considering 78 written submissions from interested parties, and after widespread consultation, the advisory panel presented its report on 29 November 2000.

The report was unanimous in recommending the establishment of Racing Victoria Ltd, but provided two options with respect to the foundation constitution of the new body.

The members of the advisory panel are to be commended for their hard work, their foresight and their creativity in recommending a governance structure which will ensure the long-term success of the thoroughbred racing industry.

In January this year, the government and the industry agreed on the preferred option for the founding constitution, and the results of that agreement are contained in this innovative piece of legislation.

The bill has two main purposes.

Firstly, it provides as a precondition to Racing Victoria Ltd being granted statutory recognition as the governing body of thoroughbred racing in this state, that the company's constitution must meet the requirements specified in the schedule to the bill. It also sets out the process which must be followed for changes to be made to the constitution. All proposed changes will be subject to parliamentary scrutiny with both houses having the power to disapprove any changes.

Secondly, subject to the foundation constitution meeting the requirements in the schedule, the bill grants the statutory recognition and legislative powers and functions currently held by the VRC in respect of the governance of the Victorian thoroughbred racing industry to the new body.

The requirements for the constitution of Racing Victoria Ltd identified in the schedule include:

Status

Racing Victoria Ltd is to be incorporated under the Corporations Law as a company limited by guarantee. Racing Victoria Ltd will be subject to all of the legal, reporting and probity obligations applicable to public companies under the Corporations Law. This includes reporting to Australia's corporate watchdog, the Australian Securities and Investments Commission, in a

manner which ensures appropriate public disclosure and accountability.

Members

The members of Racing Victoria Ltd will be the Victoria Racing Club, Victoria Amateur Turf Club, Moonee Valley Racing Club and the Victorian Country Racing Council.

Objectives

The object of the company will be to develop, encourage, promote and manage the conduct of thoroughbred racing in Victoria. This will be achieved by:

promoting Victoria as a centre of excellence for thoroughbred racing;

promoting probity in the conduct of thoroughbred racing;

providing effective and efficient management of the industry's business performance and customer service;

promoting the widest possible participation in thoroughbred racing, particularly participation by women and young people;

promoting the provision of economic benefits to the state, including industry participants, stakeholders and communities;

promoting the success of Victorian country thoroughbred racing;

encouraging all participants in the thoroughbred racing industry to be socially responsible by promoting responsible wagering and gaming practices;

promoting employment; and

promoting independence and ensuring that the governing body is free from any improper external commercial influence particularly in respect to sponsorship agreements and activities.

Powers and functions

Racing Victoria Ltd will have the same powers and functions currently vested in the VRC by the Racing Act 1958 and under the Australian rules of racing. It will also act as the representative of the Victorian thoroughbred racing industry in respect of its relationship with entities such as Tabcorp and the Australian Racing Board. Racing Victoria Ltd will be responsible for the continued marketing of Victorian thoroughbred racing nationally and internationally.

Board of directors

The board will comprise 11 directors, being:

five directors appointed by a specially created appointment panel

one director nominated by the Victoria Racing Club

one director nominated by the Victoria Amateur Turf Club

one director nominated by the Moonee Valley Racing Club

two directors nominated by the Victorian Country Racing Council

a chief executive appointed by the board.

The chairperson and the deputy chairperson will be appointed from amongst the five directors appointed by the appointment panel.

The board will have the power to appoint, from time to time, an additional director for a period of not more than three years, being a person who the board considers has expertise relevant to the functions exercisable by the board.

Appointment panel

For the purposes of appointing the initial directors of Racing Victoria Ltd, the appointment panel will comprise:

three joint nominees of the Victoria Racing Club, Victoria Amateur Turf Club, Moonee Valley Racing Club and Victorian Country Racing Council

one nominee of racing industry stakeholder bodies

one nominee of the minister.

The appointment panel is another innovative feature of the new company, devised by the advisory panel as a means of ensuring that all sectors of the thoroughbred racing industry are involved in the appointment of independent people who will be responsible for governing the industry.

Of particular significance is the role which the appointment panel affords to the racing industry stakeholder bodies, by providing them with a nominee to the appointment panel.

For the first time in Victorian thoroughbred racing history, the industry participants — such as the jockeys, trainers, owners, breeders, bookmakers, bookmakers' clerks, tote operators, stable hands, track workers — will have a role in the make-up of the governing body.

The chairperson of the initial appointment panel will be elected by the members of the appointment panel and decisions will be made on a basis of not less than 4 votes to 1.

For subsequent appointments to the board, the appointment panel will be joined by the chairperson and deputy chairperson of Racing Victoria Ltd, or their alternates when their positions are being considered.

All decisions of subsequent appointment panels will be made on a basis of not less than 5 votes to 2.

Directors not to hold other offices in the racing industry

Directors of the company must be independent and free from any real, perceived or potential conflict of interest. However, in the interests of providing continuity during the transition period, the VRC, MVRC, VATC and VCRC may nominate a serving office-holder of a racing club to occupy the position of director for the first year. At the first annual general meeting, any such person must elect to resign from the position they hold with their nominating club or step down from the new body.

This requirement is essential if the governing body is to fulfil its commitment to independence.

Selection of directors

In order to ensure that the board comprises the highest calibre of people, all directors must be knowledgeable or experienced in business, finance, marketing, technology, administration or the horse racing industry. They must also have the capacity to ensure best practice in the industry's management.

Regard must also be given to ensuring that the board has a collective diversity of skills and expertise.

Consultation

The new company will be required to establish proper procedures for consulting with racing industry stakeholder bodies and the board's annual general meeting will be open to the public. These requirements are further ways of ensuring that the governing body is open, transparent and responsive.

The industry stakeholder bodies who Racing Victoria Ltd will be required to consult have been identified in the bill as follows:

Australian Jumping Racing Association

Australian Services Union (Victorian Branch)

Australian Trainers Association (Victorian Branch)

Australian Workers Union (Victorian Branch)

Media and Entertainment Arts Alliance

Thoroughbred Breeders Victoria

Thoroughbred Racehorse Owners Association

Victorian Bookmakers Association

Victorian Jockeys Association.

There will be capacity for other industry bodies to be added to this list.

Subject to the passage of the bill, it is intended that Racing Victoria Ltd will assume its control of the thoroughbred racing industry at the start of the new racing season on 1 August 2001. In order to meet this deadline, the process for selecting the company's board of directors will be commencing in the near future.

This bill fulfils the government's commitment to ensure that thoroughbred racing is governed by an independent body, which is responsive to the needs of country racing and to the industry participants without whose efforts the Victorian thoroughbred racing industry would not exist.

Racing Victoria Ltd will be assuming the weighty responsibility of governing a great Victorian asset. While it will be incumbent on the government to closely monitor and review Racing Victoria's performance, the extensive consultation process which has been undertaken and the preparedness of the industry to embrace the change, provides the government and the industry with every confidence that the new company will successfully rise to the challenges that lie ahead.

I commend the bill to the house.

Debate adjourned for Hon. I. J. COVER (Geelong) on motion of Hon. P. A. Katsambanis.

Debate adjourned until next day.

URBAN LAND CORPORATION (AMENDMENT) BILL

Second reading

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

That this bill be now read a second time.

Before its election, the government proposed a broader focus for the Urban Land Corporation, particularly by bolstering the corporation's functions in urban and regional centres. It also proposed to ensure that corporation projects had close links to transport services and contributed to improvements in affordable housing in Victoria.

The corporation is a major holder of land. It currently holds in excess of 1000 hectares and has over 12 500 potential residential lots in 12 projects around the Melbourne metropolitan area. It brings approximately 1500 to 2000 lots on to the housing market per year, generally in the price range $55 000 to $200 000. Its current operations represent approximately 12 per cent of the housing land market in Melbourne. For the financial year ending 30 June 2000 it has produced an after-tax profit of $20.4 million reflecting a return on equity of 11.6 per cent.

The current focus of the corporation is too narrow. Its legislated functions do not facilitate integrated development, combining residential and non-residential elements, in urban or regional contexts. Its functions do not reflect the desirability of including a component of affordable housing, or providing links with transport services or meeting other broader urban policy objectives. The bill amends the corporation's charter so that it can function with a much broader focus.

The corporation needs to be able to assemble land in both metropolitan and regional areas for development. This is provided for in proposed section 6(1)(a). It also needs a new name to reflect a growing role in regional Victoria. The bill renames the corporation as the Urban and Regional Land Corporation.

The corporation also needs to be able to act flexibly as either a sole developer, as a partner, or by agreeing with others to develop the land. This is provided for in proposed section 6(1)(b).

It needs to be able to develop land for mixed use or integrated purposes, and not just residential purposes. It needs to help provide a competitive market for that land. This is provided for in proposed section 6(1)(c).

It needs to be able to pursue best practice in urban and community design, having regard to links to transport services and innovations in sustainable development. This is provided for in proposed section 6(1)(d).

It needs to contribute to improvements in housing affordability. This is provided for in proposed section 6(1)(e).

It needs to be able to continue to provide consultancy services in relation to the development of land. This is provided for in proposed section 6(1)(f).

I wish to inform the house of the government's views, in a little more detail, about two of these functions — the corporation's development function and its role in relation to affordable housing.

Although the corporation will be able to facilitate integrated development, the government does not propose that the corporation will become a construction company or housing developer. It can, nevertheless, influence construction on its land by various means for overall public benefit.

One way is to demonstrate new ideas and methods. The corporation has successfully done this with smaller lot subdivisions, greater diversity of lot size and orientation in estates, greater recycling of waste water, and better solar orientation of lots as part of improved energy efficiency and environmental sustainability. The government will be encouraging more innovation of this type by the corporation.

In relation to the corporation's role in improving housing affordability, the government does not propose that the corporation be a landlord for public housing developed by the corporation.

However, the corporation is able to contribute to achieving improving housing affordability. It might, for example, produce more affordable lots in some estates. It might also sell land to developers of long-term affordable rental housing. It can also improve overall affordability simply by competing effectively in the retail land market. These possibilities will be worked through as part of the government's proposed affordable housing framework.

I commend the bill to the house

Debate adjourned on motion of Hon. P. A. KATSAMBANIS (Monash).

Debate adjourned until next day.

STATUTE LAW AMENDMENT (RELATIONSHIPS) BILL

Second reading

Debate resumed from 3 May; motion of Hon. M. R. THOMSON (Minister for Small Business).

Hon. C. A. FURLETTI (Templestowe) — I am pleased on behalf of the parliamentary Liberal Party to contribute to the debate on the Statute Law Amendment (Relationships) Bill, which has been introduced by the government as a piece of antidiscrimination legislation that in its text amends some 44 acts of the Victorian Parliament. The bill was introduced by the government on the back of a second-reading speech which indicates that the bill takes a significant step in implementing the government's pre-election commitment to reduce discrimination against people in same-sex relationships.

It goes on to say that the bill will have a real and beneficial impact on people's lives and that its main aim is to reduce discrimination against non-heterosexual couples in areas such as intestacy. The bill will also benefit heterosexual de facto couples — and the speech goes on. It is very much presented to Parliament as an antidiscrimination bill.

It was on that basis that the parliamentary Liberal Party was ad idem with the government, and if that was the case the Liberal Party was happy to cooperate to introduce good legislation. But when the Legislative Assembly circulation copy of the bill was analysed it was seen that the provisions proposed by the government were far more broad ranging in their effect than being restricted to discrimination against de facto or same-sex couples.

Messing up the definitional sections of the bill meant there was a total realignment of the standing of married and heterosexual de facto couples vis-a-vis same-sex couples. While the Liberal Party recognises that heterosexual de facto couples do not enjoy the same rights as married couples, irrespective of the gender of the de facto couples — I will continue to use the term although it is amended in the bill — any inconsistencies must be addressed and any elements of discrimination based merely on that fact should be redressed, but the Liberal Party believes it should not be at the cost of the institution of marriage and the family.

The Liberal opposition, while strongly opposing discrimination, is at the same time keen to express its strong commitment to the protection of the family and the enforcement of the family unit, recognising, of course, the paramount interests of children and encouraging and promoting long-term relationships in that regard. At the heart of the philosophy of the Liberal opposition is the preservation of the sanctity and status of marriage and family.

That is not to say that marriage works in 100 per cent of cases. I will refer to the difficulties later in my contribution, but long-term family relationships between heterosexual couples are clearly the most appropriate environment in which to bring up children. Any number of family studies experts would, I am sure, provide evidence for supporting such a basic contention.

The bill as originally introduced by the government proposed to undermine and weaken that most paramount of considerations in the Liberal Party's view, that most fundamental concept of long-term stability. I will shortly refer specifically to the proposed sections. The issue in this instance is that any heterosexual couple can choose not to take the course of signing a marriage contract. For whatever reason that choice is made, so be it. They may choose to live in a genuine relationship but not to call themselves married. The reverse applies: once formally married, that commitment and that acknowledgment of that relationship are not lightly changed.

We are all aware of the problems many couples — in fact, approaching 50 per cent in the Western world, I am told — are confronted with in family law proceedings for annulment or dissolution of a marriage. The only other way really is through the death of one or other of the partners. Marriage as an institution and as a form of commitment is not an easy thing to set aside.

The bill the government introduced in the other place has a fairly chequered history. It was first tabled in November last year. I can indicate to the house that it has undergone some considerable surgery since that time. I would like to pre-empt, if I may, some further amendments to the bill that is before this house, which the government has agreed to. I congratulate the government on its acceptance of the suggestions put to it by the Liberal opposition in this case.

The amendments to which I will refer subsequently in my contribution relate to the purpose provision and the intestacy provisions. I will address those matters in detail shortly, but the fact is that in the course of its passage through the lower house some 80 amendments were made, including some 22 government amendments and a further 40-odd amendments moved by the Independent Labor member for Gippsland West.

Not all the amendments were opposed — in fact, they were supported by the Liberal opposition. However, it

directed to the close attention of the government that the bill was another example to add to the list of poorly considered, badly designed, hastily drafted and sloppily prepared legislation. I liken it very much to the transgender, whistleblowers and injecting facilities legislation, not to mention the constitution reform legislation, which resulted in two bills sitting in this place for some time.

Whether through incompetence, negligence or perhaps deceit this legislation is another botch-up that has caused far more angst and concern in the community than was really necessary. We in this house must consider the insult to which we are subjected, because these are not casual amendments; they are core amendments introduced by the Attorney-General and the honourable member for Gippsland West in another place.

The significant amendments, which cut across the whole raft of the 44 acts to which I earlier referred, can be broken up into a number of parts. Some provisions relate to the property-related benefits to which a partner and a new definition of 'domestic partner' are entitled. Some deal with benefits derived by partners or domestic partners from compensation schemes and others relate to benefits derived by partners and domestic partners under superannuation schemes. Schedule 4, headed 'Health related legislation', relates, including other things, to human tissue donation. There are also provisions on consumer and business legislation roles and a catch-all general schedule 7.

While the operative sections of the bill comprise only 9, its impact is quite dramatic because it affects some 44 pieces of legislation in which the rights of spouses or de facto partners are involved. It should be noted that the term 'de facto partner' has been repealed in all the bills affected.

A new definition, domestic partner, has been introduced, and that was the first substantive concern of the Liberal opposition after its concern about the purpose of the bill was initially identified. It is as good a time as any to refer to the amendments to the bill which have been effected following the insistence, to a large extent, of the Liberal opposition.

The bill before the house differs from that originally tabled by the government. This bill includes an object clause 1(2), which contains a significant amendment to the government's purpose and proposal. It states:

> The object of this Act is to recognise the rights and obligations of partners in domestic relationships where there is —

this is the new part —

> mutual commitment to an intimate personal relationship and shared life as a couple, irrespective of the gender of each partner.

The last sentence is almost an add-on, and clearly indicates that this bill is intended to affect not only same-sex couples but also de facto relationships across the board.

I emphasise that the words 'mutual commitment' to an 'intimate personal relationship' and 'shared life as a couple' connote a quite different intent and purpose from that to which the government originally subscribed.

The original definition of 'domestic partner' also caused the Liberal opposition serious concern. In fact, there were two definitions — one was a broad definition and one was narrow. Our concern was the effect of including 'couple' in one definition and excluding it from the other. Legal advice from senior counsel was that the inclusion of the term in one definition but excluding it from the other would have caused uncertainty in the operation of the legislation. Thus the introduction of the term 'couple' throughout the clauses was significant in the view of the opposition.

This is an appropriate time to point out that the opposition insisted that the purpose provisions of the bill should be amplified to clarify the intention of the government by adding a third subclause to clause 1. I am pleased that the government has seen fit to accept that recommendation. I understand that during the committee stage the government will move an amendment providing that a further object of the bill is to prevent the discrimination referred to in the schedules by ensuring that all couples, irrespective of gender, have the same rights and obligations, yet ensuring a commitment to a long-term relationship and the security of children. That crystallises the importance the Liberal opposition places on that element of society — long-term relationships and the security of children.

The opposition was also very pleased with the amendments to the definition of a 'domestic relationship' introduced by the honourable member for Gippsland West in another place. However, the introduction of the amendments in the other place were somewhat convoluted. Clause 9.3 of schedule 9 on page 15 of the bill, which amends the Property Law Act by inserting section 275(2), is to be applauded.

Because one of the concerns of the Liberal Party was the difficulty in determining what a genuine domestic relationship was, the opposition made it clear to the government that it had great difficulty supporting any proposal that would in effect undermine the traditional values of long-term relationships, which the Liberal Party supports.

One of the concerns was that a relationship, whether lasting one day or one week, could have raised an entitlement that I am sure in hindsight the government did not intend, and I say that because the government has accepted the amendments. At the briefing on the bill it became obvious that the original definition of domestic relationship and the way entitlement to property rights were triggered under the Property Law Act meant that a child of one of the partners to the relationship — not a natural child, a child that could have had the parental relationship established through a third party, and despite the fact that one of the partners had absolutely no knowledge of the child's existence — could have triggered, under the amendments to section 275 of the Property Law Act, as proposed by the government, an entitlement the Liberal opposition felt was not warranted. That provision has now been amended.

Clause 9 of schedule 1 redefines the definition of 'child' to include a child of one of the partners of whom the other partner is presumed to be the father, an adopted child or a child born as a result of sexual relations between the partners. Clause 9.3 sets out a number of interpretive aids for 'domestic relationship' to assist the courts in determining what it is that constitutes a domestic relationship.

I would like briefly to go through those eight elements, all of which are significant and important. They include, for example, the duration of the relationship. Clearly time is important in any circumstances where human relationships or involvement are concerned. The duration of a marriage is a factor considered in family law property apportionment. The second element is the nature and extent of common residence. The period and circumstances in which people live together will carry some weight, but it is not restricted to the extent of common residence. It includes an element of the nature of the common residence, which we presume opens the door to situations such as the intention of the partners. Even if they are not living together, if their intention is to cohabit or the nature of the common residence is such that they are cohabiting but one partner happens to be working overseas or be in hospital with some illness, those elements can be taken into account.

The third element is whether or not a sexual relationship exists. A concern was raised that under the previous system flatmates or distant relatives who were living together as a matter of convenience could have claimed to have had a domestic relationship. Clearly a sexual relationship is not necessarily the be-all and end-all of the issue, but it is a factor that needs to be considered in determining the nature of the relationship between the parties.

The fourth element is the degree of financial dependence or interdependence and any arrangements for financial support between the parties. That is significant for obvious reasons. The fifth element is the ownership, use and acquisition of property. Again, if property is acquired and used for specific purposes with the intention of it being what would usually be called the matrimonial home, that would be an element to be considered. On the other hand, if it were an investment partnership for the purchase of a property in which the two people live, clearly different criteria apply.

One of the significant elements I need to refer to is the degree of mutual commitment to a shared life. The Liberal opposition believes that to be the most telling factor — that is, having a strong degree of mutual commitment by both parties to a shared life, to life as a couple.

The last two elements include the care and support of children and the reputation and public aspects of the relationship. In other words, what the world at large considers the relationships to be. That is not restricted only to same-sex relationships; there is a whole new dimension, if you like, for de facto relationships, heterosexual and same sex. It certainly improves the position of heterosexual de facto couples, who in the past have sometimes had difficulty in establishing their rights, notwithstanding the provisions of section 275 of the Property Law Act.

I want to give an example that I experienced early in my legal career with neighbours across the street where I had grown up. I was not aware that the couple were not married. In fact, the couple had lived together for some 25 years and had children. I am going back to the late 1970s. The husband died, and in his will he left all his assets to someone other than his partner. I remember the lady coming to see me, and one of the hardest things I ever had to do was to tell her that the law did not recognise de facto relationships. There are situations and circumstances where it is important for legislators to ensure that that type of inequity should not exist.

The provisions covering finance and property in the bill, which traverse 44 acts, are significant, but they are not as significant as the amendments to the Property Law Act, which mean that, as I have indicated, where a couple has a genuine de facto relationship, one partner can claim a property division against the other.

The other principal area is that of administration and probate, about which I do not intend to go into great length because other speakers on this side of the house have possibly far greater and more learned contributions.

The provisions of the Administration and Probate Act with respect to intestacy are provisions with which the Liberal opposition had some concern in the first instance. The current provisions for intestacy provide that if an intestate leaves solely a spouse then the spouse will be entitled to the whole of the intestate's estate. If there is a spouse and children, then the spouse of the intestate will be entitled — I am paraphrasing — to $100 000 out of the residue of the estate and one-third of the residue, together with the right of the surviving spouse to acquire the matrimonial or domestic home, and that the remaining two-thirds of the residue is distributed among the children.

Concern was also expressed about another provision of the bill. In the event of an intestacy where only a spouse and domestic partner survived an intestate, if the relationship between the domestic partner and the intestate was of two-years duration or more the estate would be divided equally between the surviving spouse and the domestic partner of the intestate, and if that domestic relationship had been ongoing for five years or more the spouse was totally excluded from any entitlement and the whole estate went to the domestic partner. The Liberal opposition saw that as a rigid scenario, particularly if the spouse was supporting children.

I am pleased to say that the government has listened to the arguments put by the opposition and has agreed to a table whereby those rights are varied and are on a graduated scale, so that if there is a relationship of less than four years the spouse's entitlement is two-thirds and the domestic partner is one-third, going down to a relationship of six years or more where the spouse will not be entitled to any share of the estate, and the domestic partner's entitlement will be the whole of the estate.

I do not propose to analyse that matter in detail and will leave it to the minister to table the amendment during the committee stage. It is a significant amendment that gives effect to a scenario which we would envisage would not arise often because one would assume in most cases of a separation of this type that there would be family law proceedings or a will which would result in the appropriate property division and these matters would not come into contention. However, for those few cases that arise we are grateful that the government has seen fit to put forward an amendment that has more flexibility. It is a pleasure to say that the opposition does not oppose the bill and supports the proposed amendment.

Hon. G. W. JENNINGS (Melbourne) — The Parliament of Victoria and parliaments generally sometimes deal with legislation in the name of building institutions and creating opportunities; to restore, remedy or rectify problems in government administration; or because it is responsive to human need and ultimately in touch with reality and fundamentally it is right. I believe this legislation fits fairly and squarely into the last category.

On behalf of the government I wholeheartedly support the Statute Law Amendment (Relationships) Bill, which deals with the question of equal rights in two major streams. Firstly, on issues that demonstrate regard and respect for all Victorian citizens it lays out in a legislative framework how we believe that regard and respect should be applied; and secondly, it lays out a regime that deals with issues of discrimination as they occur under Victorian law and other laws throughout the land. The application of measures to address discrimination should not come at the expense of the respect and regard for any other individuals in the community, or the respect and regard that Parliament and the government have for institutions, as described in the community, such as the family. It does not come specifically at the expense of the institution of marriage.

In the development of the legislation and the community debate that has been generated over a number of years, and which has been given some prominence in the last year, these issues have been elevated to public concern on a number of occasions — and it is appropriate to acknowledge that concern. I will place on the record some of the philosophical views adopted by the government on this question so there may not be a lingering concern in the community that the legislation will be introduced at the expense of the rights, obligations and opportunities of any Victorian citizen.

Honourable members may ask in this debate: why should the state have anything to do with relationships at all; what has the state to do with intervening in the rights of human relationships and the domestic arrangements of its citizens? My response is that the

state is required to become involved in a number of areas in an attempt to clarify the rights and obligations of any member of our society about relationships. The government on occasion may have the responsibility for providing or authorising benefits. It may from time to time outline the regime of legislative requirements of the responsibilities and obligations of those who seek to receive those entitlements. It may also be called in to codify and provide the courts with a regime that enables disputes regarding the relative rights of people who have competing needs and aspirations. Clearly these are the issues that the bill addresses.

The institution of marriage has been traditionally the formal legal arrangement between partners. It has been the most convenient method for parliaments and the courts to use to deal with these questions.

In many sections of the Australian community that continues to be the easiest, clearest and starkest, in black and white terms, way that issues may be dealt with by the courts. However, that does not accord with a trend consistently seen in the courts and in legislation of a totally appropriate recognition of de facto relationships and relationships that have not had the formal sanction and registration of a marriage ceremony.

The legislation fundamentally addresses this reality by providing ongoing certainty and consistency in the way Victorian law will address the issues in the future. It will not impinge upon the rights of those who prefer to live in the state of marriage or those who prefer to live in de facto relationships; or, most importantly in this instance, it will not discriminate in respect of the gender mix of those who choose to live in those relationships.

Those in the community concerned about the erosion of legislative recognition of the institution of marriage should take some comfort from the fact that the legislation does not impinge upon the legal standing of the word ‘spouse’ in Victorian legislation. In fact, it clarifies for the first time in many years a consistent approach to the way ‘spouses’ will be addressed in Victorian legislation. The foreshadowed amendment to codify the schedule relating to intestacy will provide a clear, codified arrangement that demonstrates that if there is no will and there is some rival claim based upon the length and consistency of a relationship, the spouse does and will in the main have a prior claim in the way the courts deal with the matter.

The community has legitimate concerns — many concerns expressed in the community are legitimate — about whether the implementation of new legislation will impact adversely upon a section of the community in the name of removing discrimination. The government is concerned to ensure that the application of the legislation does not adversely impact on any of its citizens. It believes that on the basis of clarifying rights, obligations and access to proceedings through the courts the bill will assist in providing respect and regard for certain members of the Victorian community, and not at the expense of any other person.

That is consistent with the approach the ALP took to the people of Victoria at the last election, particularly in relation to a number of areas of prior discrimination that impact adversely on gay men and lesbians. The ALP took a clear suite of measures to the last election to try to remove a number of discriminatory aspects in Victorian law, and I shall briefly outline how the bill fits in with that range of measures.

The ALP said it would seek to replace the offensive lawful sexual activity provision in the Equal Opportunity Act 1995 and to remove discrimination on the basis of transgender identity. During this term the Labor government has addressed those issues. It introduced important legislation in the form of the Equal Opportunity (Gender Identity and Sexual Orientation) Act 2000 to deal with its undertakings to remove those areas of discrimination.

The ALP also undertook to review the Equal Opportunity Act 1995 and remove those exemptions that do not provide adequate protection from discrimination for gay men and lesbians. Important work has been undertaken by the Attorney-General in the other place and his parliamentary secretary with the advisory committee on gay, lesbian and transgender issues to explore responses to those issues. Clearly, it is the intention of the Attorney-General to deal with those matters.

A specific commitment was given to deal with matters in relation to same-sex couples, in-vitro fertilisation technology and adoption. A reference has been prepared for the Victorian Law Reform Commission to deal with those matters. This piece of legislation complements the range of undertakings the ALP took to the people to introduce legislative reform. In 1999 the former shadow health spokesperson for the ALP, now the Minister for Health, introduced a private member’s bill that had as its starting point the 1998 recommendations on same-sex relationships and the law report of the Equal Opportunity Commission. It provided a regime of measures that were addressed in the private members bill and more recently in this bill. That report identified that in excess of 40 Victorian statutes demonstrated some degree of discrimination not only against couples of the same sex but in many

instances against those in heterosexual de facto relationships. Specifically, this piece of legislation was designed to cut across 44 acts, as Mr Furletti said, to try to redress those issues. That range of matters deals with property related benefits, compensation schemes, superannuation schemes, health-related, criminal law and consumer and business legislation, and with the Equal Opportunity Act itself.

The second-reading speech delivered by the Attorney-General in the other place contained a range of poignant concepts and phrases. He said the bill will have an impact on and make a difference to the daily lives of Victorians. He drew attention to instances where that may be the case. The most poignant phrase I detected in the second-reading speech was the concept that a partner of a departed loved one, under Victorian statutes, can be considered to be a legal stranger.

That very telling and very moving phrase encapsulates the human emotional underpinning of the bill, and I applaud the Attorney-General for drawing attention to that issue. Under Victorian statute, on the occasion of a funeral of a loved one there have been many instances where the partner has not been able to make determinations about what happens to the body, the funeral arrangements and any settlement of financial matters because the law deals with the partner as a stranger. All honourable members must have some regard and respect for the human cost carried by those who are grieving or those who may seek support for a loved one who is in hospital receiving medical treatment and are denied access because of the legal interpretation of their rights.

That is not an abstract concept but is something that is acted out each and every day in the lives of Victorian citizens. The government has certainly had regard to that in drafting the bill. The measure underpins the government's fundamental philosophical commitment to ensuring that the additional human costs that are imposed at a time of grieving or concern about the care of the sick are not made worse by the nature of Victorian legislation and that legislation removes those additional burdens at those times.

As Mr Furletti said, some degree of incremental change has been made to the bill while it has been between houses. A number of amendments that were made by the Legislative Assembly — and which I have confidence will be agreed to today by the Legislative Council — improve, clarify and consolidate the level of agreement in the Parliament on the bill.

One amendment was the incorporation of the definition of domestic partner as it appears now in the bill, as distinct from its original introduction in the second-reading speech. A number of issues will be codified in the bill. They relate to how long the relationship must be, the care and support that is described in the bill, the length of commitment, and whether it applies to those in the relationship or to children as well. There are tests for the financial dependency or support provided in a relationship. The bill goes to the commonality of residence and to ownership issues. Underpinning all those concepts are the issues of the degree of care, commitment and continuity described in the relationship and the provision of a degree of constancy in the mutual obligation and attachment of one partner to the other.

The government is very happy to incorporate those dimensions in the bill. They will add to a body of evidence that has been emerging for quite some time in case law in Australia. The government maintains that the bill will ensure that there are appropriate touchstones and reference points in and an integration of the legal framework that applies. The amendments to the Property Law Act 1958 will mean that for the first time a legislative regime will make life easier rather than more difficult for the courts in dealing with those important matters. The bill builds on commonwealth law in relation to social security and immigration. The state legislation tidies up and makes significant contribution to clarifying the status of those who live in de facto relationships, far beyond what may have been interpreted as the original scope of the bill as applying to same-sex couples.

The amendment that has been foreshadowed and which will see the light of day in this place today will provide a basis for the courts to make determinations when someone dies without a will. Previously the courts were confronted with an open regime in making a determination about the relative status of competing claimants for benefits of such an estate. Considerable thought and care has been applied to the bill since its passage in the other place to arrive at an agreed regime that will be codified and included in a schedule to the bill.

The Attorney-General and his parliamentary secretary, the honourable member for Richmond, have worked assiduously to provide the house with a bill that the Legislative Council is capable of passing and which maintains the integrity of the government's intention when it went to the people at the last election. That intention has been clear since 1988 when the Equal Opportunity Commission presented its report and it was the subject of a private member's bill introduced in 1999 by the current Deputy Premier. The government's approach and commitment have been consistent.

Because the bill that honourable members are dealing with today has the support of a broad cross-section of the Parliament it will be much the better for it.

On the concerns that a number of members of this house may have about providing equal opportunity for those living in same-sex relationships and ensuring they are not discriminated against in Victorian law, I indicate that that will not come at the expense of social values those honourable members may hold dear. Certainly that is not my intention in supporting the bill. I hope there can be an acknowledgment that the spirit of the bill is to protect rights and opportunities. It will protect legally many rights honourable members may hold dear, particularly in making sure that the definition of spouse and how it applies under the act and the amended act is consistent with current entitlements and benefits as ascribed to the institution of marriage.

Beyond the Attorney-General and his parliamentary sidekick, the honourable member for Richmond, I suggest many people have made a significant contribution to the preparation of the bill and play a prominent role in the Victorian community to support the rights of the gay and lesbian community.

Hon. D. McL. Davis — Peter Katsambanis.

Hon. G. W. JENNINGS — Indeed, he will get his due regard. I would like to echo the words of the honourable member for Richmond and congratulate those who played such a constructive role: Nan McGregor, Jamie Gardiner, Janet Jukes, Danny Sandor, Chris Walker, Mike Kennedy, Marcus Patterson, Chris Gill and Miranda Stewart.

I am pleased to pay regard to the good citizens who supported the preparation of this legislation and their commitment to enduring the debate, particularly — Ruvani Wicks and Penny Deds. A significant contribution was made in the preparation of this material by a number of eminent people in the legal profession — Felicity Hampel, Geoff Shaw, Marcia Neave. Some regard should be given to the Honourable Peter Katsambanis who has, among others, played a constructive role in arriving at the stage we are at today.

An Honourable Member — Robert Dean?

Hon. G. W. JENNINGS — I understand the shadow Attorney-General has at some stage during the preparation of the bill been somewhat disorientated in his support of it. Finally his orientation has become clear! We thank members of the opposition in both this and the other place for supporting this important piece of legislation.

I conclude by saying that I have played a very small part in the passage of this bill — very small indeed — but I am pleased to have had my small share in doing so. The bill deals with fundamental issues that are responsive to human needs, are in touch with reality and are right, which is why I have great confidence in supporting the bill.

Hon. R. M. HALLAM (Western) — It is my duty to report on the National Party's reasoned response to the Statute Law Amendment (Relationships) Bill. At the outset I commend the contributions we have heard today from the Honourables Carlo Furletti and Gavin Jennings. Much of what has already been put on the record would not raise a challenge from the National Party with the exception that we would want a quite different response to the circumstances that have been outlined. This bill is the most difficult that has come before the party room in my time in Parliament. It caused a great deal of care and concern at the party-room table.

The principal features of the bill are that it seeks to amend the Victorian legislation to include rights and benefits for a newly defined category of persons called partners where 'partner' means a legally married spouse or domestic partner; and, significantly, a domestic partner as defined can be a person of either gender. In addition, it includes the condition that 'de facto spouse' as it appears in Victorian legislation be deleted and replaced with the term 'domestic partner'.

It should be noted that the bill addresses no less than 44 pieces of existing legislation, so it is a pervasive bill. It amends those 44 acts in a variety of ways to achieve the basic purpose of equating the rights of same-sex couples with those of heterosexual couples who are married. We in the National Party understand that if this bill should pass into law we should expect this to be but the first tranche of legislative amendments; we would expect further amendments — even perhaps of equal number — to come before house in future. We note in particular that the bill does not include the concepts of in-vitro fertilisation or adoption, which we regard as very significant, and I will refer to that later in my contribution.

The objective of the bill is relatively simple and can be distilled to one simple proposition. I rely on no better reference than the comments of the Attorney-General when he introduced the bill in the other place that the proposed legislation is specifically designed to reduce discrimination against a particular group in our community, in this case people in same-sex relationships.

I acknowledge at the outset that it is hard to argue against that objective. I do not believe anybody in this chamber or throughout the community would be intrinsically supportive of negative or punitive discrimination. However, I should say as an aside that discrimination need not be negative or punitive. There are many circumstances where we have seen discrimination of a positive kind, many instances where positive discrimination is accepted and condoned, even promoted, throughout the community. Rewarding good behaviour or effort in the raising of children is a classic example of positive discrimination, and there would not be one honourable member who does not remember the buzz that accompanied the teacher's elephant stamp — again, an example of positive discrimination. So discrimination of itself is not necessarily a bad thing. The argument we have is that it is a bad thing when it is viewed from a negative or punitive perspective. I make the point that there are two sides to every coin and I will also refer to that issue later.

To introduce the National Party's perspective of this bill I refer again to the comments of the Attorney-General, who stated that the bill is designed as part of the government's commitment to create:

> … a socially just and cohesive community …

where each person, whatever their place or orientation, is offered equality and dignity.

I pose the question: how could anybody possibly argue with such laudable aims? However — and it is a very big 'however' — nothing is ever that simple. There is always another side to the story. The bottom line — the reality — is that as a Parliament we cannot grant individual personal rights in a vacuum. There will always be an effect of aggregation; there will always be an effect on the community at large. Our task — indeed, our responsibility — as legislators is to look beyond the immediate impact on an individual, however attractive or appealing that might be at first glance. Our responsibility is to trace the effects of legislation to the big picture and to ensure that any flow-on or trade-off is warranted and appropriate.

That is precisely what the National Party set out to do. We wanted to capture and fulfil that responsibility and we took the view that the final test must surely be — this should apply to any social legislation — whether any change to individual rights or entitlements is in the best interests of the community at large. That must be the ultimate test of any civilised structure. In this case we were able to trace the effect of granting automatic additional rights to persons living in a same-sex relationship to a very clear and undeniable, even compelling, trade-off — that of the erosion of the status and importance of marriage.

The National Party's position is that we should not expect to give away the benefits of marriage without undermining the institution itself. There is in our view a very real and costly direct reciprocal for the granting of those additional benefits outside the contract of marriage, and I report that it was that trade-off which determined our formal response to the bill now before the chamber. We do not accept the claim put forward by Labor and repeated today by the Honourable Gavin Jennings that what we are talking about here is clarification of the existing law. Let us not fall for that. We are actually changing dramatically the status of marriage as a direct result of this bill.

Our starting point is that the institution of marriage is not just critical to our community but has become and has been for many years the absolute cornerstone. That is not being trite or some conditioned response or reflex or reaction; that is an earnest assessment of the real world. The reality is that marriage is a vital cog in our social development and will become even more so in its future direction. So we set out to carefully consider what was that undeniable trade-off and we weighed up the rights of the individuals against whom the current law discriminates — and we acknowledge that it does, there is no dispute there; we acknowledge that the current law is discriminatory.

On the other side of the beam balance we include the erosion of marriage and the effect that will have upon the community at large in the longer term. In that process National Party members came to two clear and unanimous decisions. The first was that we should do everything within our power to protect the institution of marriage, that we should quite symbolically draw the line in the sand. The second was that we concluded that it was in the best interests of the community that we not only oppose the bill but also that we do so outright and that we send a signal that the National Party is not prepared to even countenance amendments that may be offered to make the bill less unpalatable.

I make the point very clearly that that is not a shot at the Liberal Party. I acknowledge that members of the Liberal Party have worked very hard behind the scenes to find a compromise for many of the problems we acknowledge. I know some midnight oil has been burnt by the shadow Attorney-General in the other place, and I acknowledge the contribution of the Honourable Carlo Furletti.

The National Party took the quite simple stance that this bill is unacceptable and that no modification,

amelioration, tinkering or dressing up will get us around our basic position, which was taken on the ground of a principled objection. One single factor determined our stance: the question of comparative vulnerability, and I will explain what I mean by that term.

The National Party acknowledges that same-sex partners may feel isolated, despondent and desperately discriminated against. However, they are all adults, and although they may not have chosen their sexual preference — I will come back to that point — they did choose the relationship in which they are currently living. To that extent they do have a choice.

We put that on one side of the beam balance and looked at the rights of the child. We compared that with the rights of children in marriage break-ups, and that is where they become the real victims. In many cases they are dreadfully traumatised by the experience, and they are even more vulnerable because of their tender age. They have no choice in their circumstances. The lot in life that confronts them is not by their choice. National Party members are not saying that by voting down the bill we can overcome the problem of marriage breakdown — if only it were that simple. Of course that is not our claim. We are reinforcing that in the trade-off confronting us and over which we agonised in the party room the rights of children become much more important than those of same-sex partners, given their vulnerability. It was that issue more than anything else that determined our position.

Like other members of the chamber I received a flood of correspondence on the general question of the bill. I could have used many examples to demonstrate the case put to us and the response of the parties, but I chose a letter addressed to me from the Reverend Philip Burns, the clerk of the presbytery of Kilnoorat, which covers the Presbyterian churches between Portland and Camperdown. Reverend Burns wrote to me to express the concerns of that presbytery:

> Our concerns about the bill are based on the understanding that society can only be strong and healthy if the institution of marriage is treated with respect and given every possible chance to be strong and healthy … If the legislation was to pass, it would promote the homosexual lifestyle and 'same-sex' partners as a valid alternative …

He then goes on to urge me in my deliberations on the bill to do everything possible to stick within the safe path of the principles of God's word and vote against the bill. I thank Reverend Burns for his message and offer my response to his letter not so much because of its quality but because I believe it captures the position of the National Party as closely as I can get to it:

> The National Party's fundamental philosophy is built around the concept that the family is the cornerstone of our society … and that many of the problems facing our community today can be traced, at least in part, to the erosion of that cornerstone.
>
> Against that background we take the position that this bill will further erode the institutions of marriage and family, and we have resolved to oppose the legislation outright.
>
> I might add that we are not persuaded by the argument that the bill does no more than provide to same-sex couples the identical as-of-right entitlements currently enjoyed by the traditional heterosexual marriage unit … and the argument that follows that the bill is thus supportable on the grounds that it removes some clear examples of discrimination. Our view is that same-sex couples can obtain relief in respect of most areas of law and administration through contract … and that, in those areas where contract law would not provide a simple remedy, the government has some very clear and specific legislative alternatives to the 'catch-all' which the bill represents. In any event —

and here is the bottom line —

> we believe the concepts of marriage and family to be of such importance that we are prepared to face the scorn of some … rather than succumb and allow these concepts to be undermined.
>
> In all of this, any long-term 'solution' requires that caring people get involved.

I thank the Reverend Philip Burns for his contribution. That is a fair summation of the position of the National Party.

I want to reinforce what the National Party's position of opposing the bill says, and perhaps more clearly to reinforce what it does not say. Firstly, it says that we regard marriage as of critical importance to our community, because a stable and loving marriage of male and female partners offers the best possible environment in which to raise children. At the end of the day what greater responsibility do we have as individuals than the nurture and protection of our offspring?

On the other hand, we are not saying that all marriages are made in heaven. In fact many of us would know that many marriages seem to have been made at exactly the opposite end of the spectrum. We are not denying that many marriages end in divorce. We are not denying that many single-parent families produce fine offspring. Indeed, I could cite a number of circumstances where an infant and a single mother have been taken into the wider family circle and been provided with a stable, supportive and loving environment in which to raise the child.

The National Party is saying that there is unassailable evidence that children have the best chance in life when

reared in loving relationships involving a natural father and a natural mother. Of course there are exceptions, but the reality is that children of parents involved in casual or short-term relationships have the odds stacked against them. If we are not prepared to acknowledge that, all we need to do is to look at the statistics that relate to educational outcomes, drug abuse, crime rates, homelessness and sexual abuse. All of those factors confirm the inescapable conclusion.

The National Party is not surprised by those statistics. Marriage did not just happen; it is not something that we meandered across in the course of our lives. Marriage has an extraordinarily long and rich history, and it has stood the test of time. It must have something going for it. After all, marriage is a very big contract. It is not based on paperback concepts of romance and physical attraction so much as it is based upon personal commitment. The commitments are really onerous. For those of you who have forgotten, let me remind you of some of the contents of the commonwealth Marriage Act. It is not a contract into which one would enter lightly.

Firstly, the contract says, 'Till death us do part'. That sort of gets to you — it is literally a lifetime commitment, and it is a pretty sobering fundamental clause. A marriage must be formalised before a qualified celebrant. The parties entering the contract must be qualified as to age and they must be able to establish their single status. They must be either single or divorced.

There is a substantial penalty for falsely entering or falsely procuring a marriage. The contract itself must be witnessed, and traditionally that is done before a very large gathering. For many, the marriage contract is solemnised in church to add even greater sanctity to the institution of marriage and to the marriage ceremony itself. When a marriage fails, there are very strict rules for annulment and the disbursement of property which take particular note of responsibilities to any children of the marriage.

No-one should enter the contract of marriage lightly. An examination of the history of marriage down through the ages will demonstrate why it is taken so very seriously — that is, because it carries with it a lifetime personal commitment to a partner and, more particularly, a pledge to accept responsibility for the care and upbringing of any issue. In one sense that is society's way of saying that each of us has the responsibility for the care of each life we create, so we are talking here about some pretty basic issues. Every parent I know tells the same story — that the creation of life is a wonderful but sobering experience that only hits home when it happens, particularly when the first-born child arrives. I thought about how to describe the mixture of emotions I felt, and I do not have a single word for it — gobsmacked is perhaps as close as I can get. Parenthood is a very big responsibility, as it should be.

Marriage automatically conveys rights regarding property ownership. Indeed, in earlier times when arranged marriages and dowries — perhaps we should bring them back — were more common, it was in many cases the property implications rather than any quaint notion of love that dominated the negotiations. In any event, together with the concept of a shared future and a shared responsibility for the raising of children went the concept of shared property rights. It was assumed as a matter of course that should a partner of a marriage die, the property would automatically transfer to the surviving partner to continue that shared responsibility, and that is the point we make. The marriage contract is designed for some very good reasons, and those reasons include, in particular, the distribution of property in the event of death or annulment.

Marriage is not something that should be entered lightly, nor is it something that should be thrown away lightly. Indeed, we should be resisting its erosion. The extent to which the government now says that same-sex partners should share the entitlements that automatically go with an onerous marriage contract goes to the nub of the National Party's concerns. We do not want those entitlements to be automatically available without that contract, because it is the marriage contract and the commitments that go with it that are so vital to our community, and that is the position that underpins the stance of National Party members. We do not want to erode the importance of marriage.

We are not saying in our reasoned response that we have no sympathy for those who have a different sexual orientation to our own. We are not driven by bigotry and we are not homophobic or prudes. We are not telling consenting adults how they might live their lives; that is a matter for them. We are not trying to drive our morality down anyone's throat at all. We acknowledge that sexual preference may not be a matter of personal choice at all and that it might be more a lottery of nature, in which case we should give thanks because there but for the grace of God go all of us, and I do give thanks. I am happy to report that my wife and I have been happily married for 37 years. We were childhood sweethearts; we have had the good fortune to rear six healthy sons. I am still very pleased to go home; I think I am a very lucky man. My point is

that that does not make me any better than anyone else, it just makes me luckier, and I count my blessings.

However, at the end of the day simply handing to same-sex partners the entitlements that are attached to a marriage contract is not the solution. It will send a message to the community that marriage has been taken off its pedestal and the formalised responsibilities that go with it will be depreciated. Our view is that that will be to the eternal cost of our community. We are not ignoring the extent to which marriage has already been dethroned, or, to use the terminology employed a moment ago, knocked off its the pedestal by the recognition of de facto common-law marriages. We are saddened to see the number of couples today who decide simply to live together rather than to formally marry. We acknowledge that trend, and we acknowledge that such a partnership does not need a certificate to survive. However, it does signify to the world that the commitments that go with a de facto marriage are not at the same level as the commitments that go with a contract of marriage, which are so important, particularly when there are children involved.

We are not persuaded by the argument we have heard so often that marriage is already being eroded by our tolerance and recognition of de facto relationships and therefore we should be extending the rights of marriage beyond the contracted couple. We are certainly not persuaded by the argument that this is somehow a natural or logical progression. We say we should be taking the reverse position and addressing the basic issue involved here by not giving up on marriage but rather working harder to have it accepted as the preferable system for raising offspring. We should be trying to make marriage fashionable again, because that would be a sound strategy to address many of the social ills that confront us today.

Our argument is that the erosion of marriage thus far is clearly going in the wrong direction, and that many of the maladies facing society today confirm that. Therefore, we should be working harder to have marriage as the basis of our community rather than simply throwing the sponge in altogether. Our central point is that the marriage benefit comes as a result of a contract, and it seems to us to be no solution to simply extend those same benefits to all and sundry without their first entering that contract. We are certainly not persuaded that others should be entitled to the benefits of that contract on the basis of discrimination, because that is exactly why the marriage contract was devised in the first place. It was designed to formalise the commitments of those entering it.

I say again that if those who have entered a same-sex or de facto relationship are really concerned about entitlements, most could be covered by a relatively simple contract, and I ask why such contracts are not common. However, I do not think it is appropriate to speculate on that issue. We admit that some issues could not be covered by such a simple contract, but they are relatively few and, in our view, at the margin. If the government were genuine, it would be a simple task to arrange legislation much less intrusive than this bill to provide a safety net rather than going to the extent of the catch-all that the bill represents. Our argument does not seek to condone negative discrimination against same-sex couples but rather turns the equation on its head.

We turn it upside down. We believe positive discrimination in favour of marriage to be of critical importance to the future direction of our society, and we are determined to support that discrimination. So we are not at all persuaded by the Attorney-General's assurances that the bill does not encroach on the status of marriage. Of course it does. It must, by definition. To deny that it encroaches is either naive or devious, and the National Party will not support the step-by-step devaluation and erosion of the marriage institution. As I said before, we should be championing the cause of marriage, not finding excuses to further dilute it.

There are two further aspects of the bill that I wish to highlight. The first of those is to acknowledge that we are playing here for huge stakes. This is not some game of tiddlywinks; the practical effect of the legislation before the chamber will involve enormous monetary values and maybe enormous personal hurt. We acknowledge that where a marriage partner dies intestate, under the proposal before the chamber a domestic partner — defined to mean a cohabiting person of either sex — would be entitled to equal shares with any former spouse if living with the deceased for two years. If the term had been for more than five years that cohabiting domestic partner would be entitled to the entire estate irrespective of the years spent with the spouse. I know that is to be softened by amendments that have been foreshadowed, but my point is that what this highlights is the extent of the ramifications of the bill. This is not something that can be dismissed as marginal in effect. We are talking about very substantial effects, particularly in respect of the distribution of property. We are talking about some quite fundamental assumptions at law, and we suggest those assumptions will inevitably cause great angst throughout the community.

The second point I make is that we see this bill as a stepping stone. The bill entails amendments to 44 acts

where terminology is to be amended, primarily replacing 'spouse' with 'domestic partner'. As I said at the outset, we see it as being enormously significant that the bill does not include the issues of in-vitro fertilisation (IVF) and adoption.

The first question we would pose in that context is: why does the bill not address those issues? Surely no-one would claim they are not issues where discrimination is currently being exercised. If we listen to the government, we are told that is because those aspects of the law have been referred to the Law Reform Commission for consideration, and that is painted as some sort of responsible course of action. But we in the National Party think there is a much more pragmatic rationale and reason for that exclusion. We believe the Labor government has judged, in our view quite rightly, that the community is not ready to countenance same-sex couples being granted access to IVF and adoption programs and that to include those concepts in the current bill would jeopardise the passage of the legislation. What it does more than anything else is underscore the strategies being employed by the government. This is a case of softly, softly, a little bit at a time. If the government is successful I have no doubt it will be back very shortly with more incursions into the institution of marriage.

We in the National Party say we should be playing the same game. We should actually play the government at its own strategy. We should not be giving in to this bill simply because it is but a small step, because quite clearly it is a small step in the wrong direction. We are not persuaded by Labor's claim in the second-reading speech that in recognising non-heterosexual relationships in a non-discriminatory way this bill does not encroach on the status of marriage, because it is that very question that goes to the absolute heart of the debate. As I have argued and set out to demonstrate, that claim is patently untrue. It appears to be so obvious to us that it raises the question of the motivation of the Bracks government. We are not at all convinced that this bill can be explained as simply a case of well-meaning but misguided social engineering.

In any event, our conclusion is that the status of marriage is absolutely pivotal to our decision on the bill, and we are determined to draw a line in the sand.

There have been some in the community who have portrayed our response as superficial, antiquated and uncaring. I assure the house, in concluding, that the National Party devoted enormous time and care to the determination of its stance on this bill. As I said, I do not remember a more difficult concept coming before the party room table. The difference in this case from the position adopted by the other major party is that we have looked beyond the interests of the relative few who feel discriminated against today and weighed up what we are asked to trade as a remedy, and we are not prepared to accept that price.

We believe this bill is not in the best long-term interests of our community, and for that reason I record the National Party's absolute and total opposition to the bill before the chamber.

Hon. A. P. OLEXANDER (Silvan) — I rise with great enthusiasm to speak on this bill on behalf of the Liberal Party. This is a bill I have personally been waiting for with great anticipation for quite some time — and I am not talking about waiting for the past couple of months while the negotiating process was going on for this bill. I am probably talking about a wait that has lasted most of my life. I say that because it is no secret to members here assembled, or to anyone for that matter, that I live in a same-sex relationship and have done for some 9 to 10 years. It is a relationship that I know is based on commitment, trust, mutual support and a great deal of love.

When I look at relationships in general, that is the test I put on relationships of any type, whether they are between people of opposite genders or people of the same gender. I believe my relationship, with all its faults, stands up proudly and equally against any other relationship that exists in Victoria. I say I am enthusiastic about this bill because so rarely do we as representatives of the people have the opportunity to do something that is really positive for human rights, something that really does make a difference in the everyday lives of the people in our community.

We do not often see legislation that addresses and reverses profound injustices in our society, but the Statute Law Amendment (Relationships) Bill is such legislation. It gives us all just such an opportunity — the opportunity to address and reverse profound injustices that currently exist in Victorian society. I and the Liberal Party welcome wholeheartedly the opportunity to contribute to debate on this bill and to play our part in its passage through the Victorian Parliament into law. We in the Liberal Party take that role very seriously, and we adopt it wholeheartedly.

The fight for human rights, human dignity and respect for all individuals in our society is an ongoing struggle, and it is clearly understood that law reform designed to facilitate these things is not ever represented by one single event; it is represented rather by a series of events in on ongoing process that we hope brings us

closer to a fairer society and equality for all people before the law — equality for all people in Victoria.

This Parliament, indeed this chamber and my party, the Liberal Party, have over the years played their role in the process of reform in some very important ways. I would like to remind the chamber that in 1977 Victoria's first equal opportunity bill dealing with gender inequality was introduced by the Hamer government and brought into effect. I understand the opposition, which was then the Labor Party, did not oppose that reform.

In 1980 decriminalisation of homosexual relations between consenting adults occurred, again under the Hamer Liberal government. Again I understand the then Labor opposition did not oppose the reform. In 1995 the Kennett government introduced a groundbreaking equal opportunity bill that prohibited discrimination based on a whole range of factors — but importantly for the community affected by this bill one of those factors was the prohibition of discrimination based on lawful sexual activity.

After the change of office the new Bracks government introduced the Equal Opportunity (Amendment) Bill, which included protections against discrimination based upon sexual orientation and gender identity, and I am proud to say that the Liberal opposition played its role in continuing the process of reform by supporting and ensuring that those amendments made their way through the Parliament and are now law in Victoria.

The bill being debated today had its genesis in 1998 when, responding to community demands, on behalf of the Kennett government the former Victorian Attorney-General, the Honourable Jan Wade, ordered an investigation into how Victorian statutes and laws actively discriminated against same-sex couples. That extremely profound investigation resulted in an extremely important report on same-sex relationships and the law. It revealed numerous instances of how same-sex couples who were otherwise equivalent to opposite-sex couples were treated very differently under Victorian legislation. It became clear to those involved in the production of the report and those within the now Liberal opposition that those injustices could not be easily explained. They could not be explained by anything other than that the law discriminated on the basis of the same-sex partnership. That position was not supported at the time.

I am glad to say the discovery of the 40-odd pieces of legislation which so discriminated has been progressed by the current Attorney-General, the Honourable Rob Hulls, and the Bracks government. I see this as another step in the process of reform which needs to take place if we are to live in a fairer, more just society, that strives for equality before the law for all Victorians.

It is important to realise that without the support of both the government and the Liberal opposition this bill would not have the support necessary to pass through the Parliament and become law in this state. That is a clear fact to everybody.

This bill will pass through this chamber and become law because, as has happened in the past, a spirit of bipartisanship will prevail in this chamber today. I am saddened that tripartisanship was not achievable, but for the sake of much-needed law reform, bipartisanship will do. Maybe tripartisanship will be possible in the future. We will keep working on that. This bill will become law not only because of a principle but also because a lot of practical work has been done by both the opposition and the government.

Firstly, I shall address the principle that guides the Liberal Party's approach to this bill. That principle revolves around the individual, their rights and their responsibilities. We in the Liberal Party value the dignity of individual people — men and women — regardless of their race, religion, colour, creed, sexuality or any other arbitrary factor about them. We also believe in their energy and creativity, and in their liberty and freedom. This principle in particular harnesses our view and is the reason the Liberal Party will guarantee the passage of this bill through the Parliament.

That principle holds for the Liberal Party, even when the individuals concerned do not form a majority within society. It is no secret that gay, lesbian and bisexual people do not form a majority within our society. But that should not make any difference; it should not degrade the rights of those individuals when stacked up against the rights of the majority of individuals in our society. It should do just the opposite. Minorities are important to Liberals because their rights as individuals are just as important as those of majorities. Liberals believe minorities and their human rights must be recognised, protected and defended by the majority. If this is not done, all society — not just the victimised group — suffers from the injustice that results. If society itself suffers from the denial of the rights of the few, society itself is weakened. So Liberals believe we must protect the rights of individuals, even if they are part of a minority group.

Secondly, this bill will pass today because of the much difficult and practical work done behind the scenes by both government and opposition members. For all

practical purposes, the government and opposition resisted most of the temptation to let this bill flounder and play purely party-political point-scoring games to their fullest extent. I am not saying that this bill did not pass through some difficult periods. It did, as most reforms of any consequence do. But the end result was a successful outcome. The government, and the opposition in a spirit of bipartisanship were able to determine a final form of a bill on which they could both agree. It is that fact which will allow this bill to pass today and to become law.

Many honourable members in this place and the other place have demonstrated their commitment to the implementation of the principles outlined in this bill. The people who demonstrated that commitment and put themselves behind this bill came from both the Labor Party and the Liberal Party. It is very important to realise that this will not be the last piece of reformist legislation we will see in Victoria, particularly affecting gay, lesbian and bisexual Victorians. There will be other pieces of legislation, and I would be very grateful to all concerned if, in the interests of human rights, that spirit of bipartisanship continues in the future.

However, reform is never an easy process. It was difficult, and often frustrating, for all concerned — not least for members of Victoria's gay and lesbian community, who did not at all times understand exactly what the government was doing with the opposition and what the opposition was doing with the government. But that is often the way in politics. This is a Byzantine kind of place, and the processes and forms of behaviour seen here are often not immediately recognisable or understandable to those who come from outside. But people persevered.

Ultimately the government has come up with a bill that both the Labor and Liberal parties can support. Congratulations are deserved by all who persevered with that process. I congratulate members of Victoria's gay and lesbian community, including the Victorian Gay and Lesbian Rights Lobby and its members and supporters, who are many. I congratulate members of the government on their perseverance in negotiations over amendments to the bill. I also congratulate members of my own party, the Liberal Party, on their goodwill and the perseverance and courage they often showed in standing up for this principle and in ensuring that the negotiations proceeded to a successful conclusion.

I pay special tribute to my friend and colleague from the other place Leonie Burke who was a powerhouse at all points of this bill. At all stages Leonie was very strong in her support and efforts to see a successful outcome. All of us on the Liberal side should pay tribute to her for that. I would also like to pay tribute to my friends and colleagues Peter Katsambanis and Andrea Coote, members for Monash Province. I have been absolutely delighted and amazed at what towers of strength they have been throughout this process. They have stood up, they have argued the case and argued it well, and they have worked within the processes of the Liberal Party in support of this principle and in support of this bill and human rights.

It is important that we all understand the true effects of this legislation. This bill does not degrade the status of marriage. It will mean that the rights already given to opposite-sex de factos will now accrue to same-sex de factos. But it could be argued that under the provisions of this bill the status of marriage is even more separate and sacrosanct than it was before the bill was introduced, because now the definition of 'spouse' in legislation applies only to married couples. It is not diluted by being applied to married couples and to opposite-sex de factos, as it had been previously. Now 'spouse' has its own special place in legislation.

This bill does not affect adoption or fertility laws, and does not grant special rights to anybody, including gay and lesbian people. This bill finally recognises same-sex de facto relationships and places them on equal footing with opposite-sex de facto relationships.

There is a profound injustice currently existing in 44 pieces of Victorian legislation which treats loving, same-sex partners as legal strangers. I do not intend to cover all the 44 pieces of legislation but they confer legal rights and responsibilities on all de facto couples in Victoria, regardless of their gender. The bill does not only affect same-sex couples, although it does have a profound effect on them, but also affects opposite-sex de facto relationships. It is not just about conferring rights and recognition, but also about placing obligations and responsibilities squarely on the shoulders of same-sex couples in exactly the same way that opposite-sex couples have had to bear them under the law in the past. It is not a one-way street, but it is welcomed by the gay and lesbian community because it provides recognition and because it adds to the self-esteem of people in those relationships.

The bill amends acts covering property-related benefits, compensation schemes, superannuation schemes, health-related legislation, criminal law, consumer and business legislation, as well as other general legislation. These legal issues as they affect couples in this state are very broad and encompass 44 separate pieces of legislation. The rights and automatic responsibilities that are granted by the acts in these areas are often

taken for granted by heterosexual partnerships, but their absence from the legal treatment and the lives of same-sex partnerships causes enormous pain and hurt at a number of levels.

It is important to recognise how important the bill is to the lives of so many individuals, and rather than me setting out these issues for the house I want to paraphrase a number of letters, emails and faxes which I believe say it perfectly. Those individuals whose lives are directly affected by the bill should be heard in their own words. I received a letter from a middle-aged man in country Victoria which states in part:

> Before putting arguments that are important to me I would like to explain that I am typical of many regional gay men. With my professional background in agricultural science and engineering I have lived in regional cities, and most of my career has been associated with agriculture and industry in regional Victoria. It is useful also to reflect on the many silent gay men and lesbians in regional farms and businesses in Victoria who are disadvantaged by the current laws. They have not made representations to the National Party or the Victorian Farmers Federation because they fear discrimination. So please consider my letter, at least in part, on their behalf too.

A letter I received from a lady, again from regional Victoria, states:

> I am writing to encourage you to support the Statute Law Amendment (Relationships) Bill. I am a 60-year-old female who has lived faithfully and quietly with my female partner for 26 years. We are both now retired on fairly small state superannuation pensions as we both had interrupted service. As we face death and old age the chances are that one of us will be left without the other. To feel more confident that the surviving partner will be more financially secure than less, we would feel much happier if we could name each other the beneficiary of our superannuation. This is allowed if one has a partner of the opposite sex by the GSO, a ruling which is blatantly discriminatory.
>
> Mr Russell Savage, MLA, has written to me to tell me that he is concerned about justice being miscarried to the biological children in broken marriages. I appreciate this and am heartened that he is concerned about justice, because I, and others like me, suffer from injustice. While I have no desire to receive justice at the expense of others, neither should they have justice at my expense.

A letter from a gentleman from regional Victoria states:

> As a 53-year-old man in a same-sex relationship for the past 17½ years, I urge you to vote in favour of the Statute Law Amendment (Relationships) Bill 2000 currently before the Parliament. My so-called lifestyle is incredibly unremarkable. I live in an ordinary house which has the same requirements to keep it going as any other and have to go to work like other people to pay the bills. The majority of my friends, the people in our suburban street and my parents are all heterosexual. Until recently I was the principal carer for my 83-year-old mother who suffered Alzheimer's disease before she died. My life is ordinary. Other than the experience of discrimination I did not choose to be same-sex attracted. This is simply how it has always been for me for as long as I can remember. The only choice I have exercised in this regard is to share my life in a committed relationship with the man I love. I am a registered psychologist and throughout my working life have contributed productively to the wellbeing of individuals in need and to the community.

I also put on the record the sentiments of a 15-year-old male school student, again from country Victoria:

> I am currently in year 11, and studying year 12 legal studies and for this reason I am doubly in support of the Statute Law Amendment (Relationships) Bill 2000.
>
> …
>
> I fully understand that the bill does not give same-sex partners any special privileges, but that is not what the gay and lesbian community is after. All that we ask for are the same rights as heterosexual couples have in relation to being recognised as de facto couples and as next of kin if the others partner is ill.
>
> We are people capable of having functional, happy families, which is more than I can say for a lot of heterosexual couples I see nowadays. We deserve this right.

A letter from a Catholic primary school teacher in suburban Melbourne states:

> As a Catholic primary school teacher I try to teach my children to be just and fair in what they do and what they say. I believe that your lack of support for the upcoming Statute Law Amendment (Relationships) Bill would be unjust and unfair to many members of our society and thus I believe that you should support this bill and stand up for so many thousands of Victorians whose hardship you or I could hardly begin to imagine.
>
> As you can imagine, I am unable to talk openly with my students about the subject of homosexuality, but I do talk about acceptance of difference with my children and I do believe that these young Victorians could teach us older ones a thing or two about acceptance and justice for all.
>
> My best friend left Victoria seven years ago to live in Canada where she and her female partner have been able to have three beautiful and very much loved children. It is now her parents who miss out on seeing their grandchildren grow up in Victoria due to discriminatory laws that we have in place which separate families and destroy love.
>
> Please support this bill and gain the respect of all Victorians.

The final letter which comes from an employee of the Catholic Church in outer suburban Melbourne states:

> As a woman who works for the Catholic Church, assisting in the running of a parish in suburban Melbourne, I am only too aware of the hardships experienced by people who are not treated with open respect and justice. While the issues of law are clearly involved and complex there are basic rights which all human beings are entitled to.
>
> Many people who struggle with the issue of their sexuality are challenged and often degraded if they do not conform to the classification of heterosexual. For as many people who come out and say they are gay there are many more who never manage to come out, and who live a life of fear of

> persecution, despite the decriminalisation of homosexuality 20 years ago.
>
> I believe that by supporting the Statute Law Amendment (Relationships) Bill you have an opportunity to contribute to a more just society, leading to the equal rights and responsibilities of a significantly increased number of people in the Australian community. There may be someone in your family whose sexual orientation is not heterosexual. You may be aware of their relationships or you may not.
>
> Please be aware of your responsibilities to ensure equal rights are available for all Australians.

I felt it was important to put the sentiments of those people, expressed in their own words, on the record because often we do not hear from these people.

Often these are the people who do not live extraordinary lives, but lives they live, and their lives are impacted negatively by the discrimination and inequalities that occur in the laws over which we have guardianship.

A number of months ago many of my colleagues and I sent a very public message to the gay and lesbian community. Our message, which was delivered to them at the 2001 Midsumma Festival, was, 'We'll fight for you! Many people since then have asked me, 'What is it that we are fighting for?', 'What is it you meant?' and 'Be specific!'. I am prepared and happy to be specific about what that promise was, and what it means. It was a promise about human rights and dignity — about standing up for and defending human rights and dignity. It was not asking for special rights but rights which all members of society should enjoy. Until now we have recognised that many in the gay and lesbian community have not enjoyed those rights, so we said, 'We'll fight for you, for your human dignity and for your rights'.

At every stage my Liberal colleagues have ensured that we kept our promise. At every stage of this bill's progression through Parliament we have fought for and will continue to fight for you because when your rights are ignored and diminished it is our belief that our rights are similarly diminished. It is with much enthusiasm that I wish this bill and the agreed amendments a speedy passage.

Hon. E. C. CARBINES (Geelong) — I am pleased to be following the Honourable Andrew Olexander, and congratulate him on his contribution. As a member of the Bracks government I am proud to speak in support of the Statute Law Amendment (Relationships) Bill. The Bracks government is committed to ending discrimination against Victorian men and women who live in same-sex relationships, and this bill seeks to amend more than 40 acts in which Victorians in same-sex relationships are currently discriminated against.

The bill is all about human rights and the desire to see all Victorians treated equally, regardless of their sexuality. It recognises that loving relationships exist and endure in many different forms in Victoria. It is a sad indictment of our society that many gay, lesbian and transgender people experience discrimination throughout their lives. It is therefore incumbent on governments to do everything they can to remove legislative sexual discrimination and accord the same rights to all Victorians.

It was interesting to read an article in the *Age* of 28 April headed 'Gay couples' road to legal recognition fraught with the pain of discrimination'. Annexed to the story about a gay couple in a loving relationship was a list of areas where gays and lesbians are discriminated against. Under the heading 'Stamp duty' the article states:

> Gay partners have to pay stamp duty when transferring or joining names on property. Heterosexual partners do not.

Under 'Decision making in illness and death' it states:

> Gay partners not named medical power of attorney and primary estate beneficiary can be shut out of medical treatment decisions and division of estate.

Under 'Even where gay and lesbian couples think ahead and legally name one another next of kin there are problems' it states:

> One lesbian couple wrote confidentially to the Victorian Equal Opportunity Commission about their fears if one partner, who suffers intermittent mental illness, should be committed. State Trustees would not recognise a gay partner in such a case.

Under 'Property division on relationship breakdown' it states:

> One gay partner asked to leave a property will sometimes be forced to take the costly route of the Supreme Court to obtain equity, while heterosexual de factos can use cheaper and simplified procedures under the Property Law Act.

Under 'Employment rights' the article indicates that gay, lesbian and transgender people are discriminated against because:

> There is no compulsion on companies to pay benefits for a partner in areas such as relocation expenses.

Under 'Superannuation' it states:

> Gay partners can be treated as legal strangers, despite being named as preferred beneficiaries for death entitlements.

Under 'Workers' and accident compensation' it states:

> Trustees can overrule gay partners as beneficiaries in favour of blood relatives.

The article explained how Kieren McGregor and Tim Hunter had committed to spend their lives together as a couple. They held a marriage ceremony in the Fitzroy Gardens and said the occasion itself was modern and thoroughly romantic. The article then states:

> But the legalities have been less than picture perfect. Both Melbourne men will have to write wills clearly naming the other as the primary beneficiary. Each will need to name the other as medical power of attorney, a distant but real concern given Mr Hunter carries an artificial heart valve.
>
> If they fail to carry out these formalities, blood relatives may be able to override one partner's medical treatment and division of estate. Heterosexual couples are spared the same legal necessities.
>
> If either wants to transfer property into the other's name, the other partner will be forced to pay stamp duty. Their heterosexual counterparts do not face this discrimination.
>
> 'The fact is, if we were a heterosexual couple we would be afforded those rights as next of kin', said Mr Hunter … 'It's not a luxury, it's a right'.

The Statute Law Amendment (Relationships) Bill seeks to end discrimination on the grounds of sexuality in relation to property-related benefits, compensation schemes, superannuation schemes, health-related legislation, criminal law, and consumer and business legislation. In this way, the bill will directly benefit the lives of Victoria's gay, lesbian and transgender communities.

Like most members of Parliament, I have received much correspondence from people throughout the state who have an interest in this legislation. It was interesting to hear the Honourable Andrew Olexander read letters similar to those that I have received from people throughout regional Victoria. Overwhelmingly the correspondence I have received from both within my electorate of Geelong Province and throughout the state has been in support of the legislation urging me as a member of the government to support it. I have always been pleased to email them saying that as a member of the Bracks government I would be proud to support the legislation.

I received a letter from a young woman who urged me to vote in favour of the bill. She states:

> We talk so much about equality, but we sometimes do very little about getting it. In Australia there is a need for relationship equality, if we are to consider ourselves equal to one another. I may not be able to vote as of yet, but I am able to state my point of view because it is my future and the future of Australia. My point of view on this matter is that I believe there needs to be relationship equality in Victoria and across Australia. I believe that equal rights and responsibilities for same gender couples should be allowed. Everyone needs these rights and everyone but same gender couples have them.

I also received an email from a 17-year-old young man who lives in suburban Melbourne; he states:

> If you have to go through the stress, strain, discrimination, pain and humiliation that gay people have to go through every day, I am sure you would change your minds about opposing the bill.

I was not opposing it, but was pleased to email him that I supported the bill. He continues:

> I urge you to reconsider your stance on this issue and to see some sense by accepting that there are homosexuals out there and that we will not be ignored or passed over. Vote to pass this bill.

I received letters and emails and a couple of visits from people who were opposed to the bill, and it was difficult to relate to some of the issues they were raising with me.

One lady told me that if the bill were passed it would lead to anarchy in Victoria. I found it hard to have her take on board the intent of the bill. Another person, who felt threatened by the bill, wrote to me saying the bill undermined the concept of marriage. Another lady bailed me up at a function in Melbourne and took issue with the reference to domestic partner. She said she felt insulted to be referred to as a domestic partner and she knew the women of Victoria would rise up against it. I was incredulous at the remarks because I could not relate to what she was telling me. I do not think women need rely on a term in legislation to define their existence or being. I began to believe that those people who spoke to me in opposition to the bill seemed to care little about the discrimination that is suffered by the gay, lesbian and transgender community, and were passing a moral judgment on the lives of those people.

I was pleased to read recently in the *Geelong Advertiser* that two of Geelong's religious leaders have publicly expressed progressive views on same-sex relationships. It is important for our community to have religious leaders express such views. I refer to page 7 of the *Sunday Advertiser* of 20 May where, under the heading 'Blessing for gay couples', an article states:

> Geelong's Anglican archdeacon Andrew Oddy has urged the church to recognise long-term gay and lesbian relationships.
>
> Archdeacon Oddy said he was 'encouraged' by Anglican Primate Peter Carnley's call for the church to consider blessing monogamous, homosexual couples.
>
> …
>
> 'I wouldn't want to see the church as one of the institutions which allowed people to express homophobias'.

…

He said the church should welcome homosexual clergy and lay people …

'The idea that somebody should be denied the sacrament because of their sexual practice I think is not acceptable'.

'At Christ Church, it's known that gay men and women are welcome here'.

I am sure that sent a positive message to the gay and lesbian community of Geelong.

Another religious leader in Geelong expressed similar views. I refer to another article in the same edition of the *Sunday Advertiser*:

Reverend Con Taylor, who publicly declared her homosexuality five years ago, said she too would unofficially bless a gay or lesbian relationship, although she had yet to do so.

…

She said debate in Geelong was lagging but there was a need for more open discussion.

'… since my coming out in 1996, it's much easier for me personally because everybody knows my position and if they've got a problem, that's their problem rather than mine …'

'I've not had very much antagonism or persecution over my stance, rather people avoiding the situation'.

'But there have been a lot of people who welcomed my coming out because it's given them the freedom to seek assistance or pastoral care. It's freed them up to be more open'.

Ms Taylor said narrow-minded attitudes towards homosexuality were stifling young people coming to terms with their sexuality.

I congratulate Archdeacon Oddy and Reverend Taylor on openly expressing their views and sending clear messages to their congregations and the people of Geelong about the real warmth and love they afford to gay, lesbian and transgender people in their communities.

During my life I have had many friends who are gay. As a teacher I had colleagues who lived in same-sex relationships. As a secondary teacher I was very much aware of the emerging sexuality of my students. Many were gay. I have always been pleased to be associated with my same-sex friends and colleagues, and feel I have gained a lot from them over the years.

I am proud on their behalf to be speaking in debate on the Statute Law Amendment (Relationships) Bill, which is important in that it provides recognition for same-sex couples and accords them the same rights as all other Victorians. I congratulate the Attorney-General on the bill and wish it a speedy passage.

Hon. M. T. LUCKINS (Waverley) — I support the bill, which concerns discrimination against people in same-sex relationships. I will speak about the principle of the bill following the extensive contribution made by the Honourable Carlo Furletti on its legal implications. I also commend my colleague the Honourable Andrew Olexander on his tremendous presentation of the challenges facing same-sex couples in Victoria and for his hard work on the development of the bill to this stage.

When I looked at the original bill I was alarmed by many of its provisions. Certainly the opposition has been vindicated in raising those concerns in that the bill, the subject of debate today, is now more in line with the intentions of the government as stated in the second-reading speech.

My views on discrimination are well known in this place and in the community. In my inaugural speech in this chamber five years ago I spoke of my pride in being elected to represent Waverley Province at the age of 28, regardless of my age, gender or the fact that I was a mother. Women were not eligible to stand for Parliament in Victoria until 1923. Young Victorians under the age of 30 were not permitted to stand for Parliament until 1937. Now, in 2001, we consider such blatant discrimination a thing of the past. We acknowledge the determination and commitment of the many individuals in past generations who sought to overturn those prohibitions.

I find discrimination based on gender, age, parental status or sexual orientation to be abhorrent. The bill seeks to remedy the inherent discrimination against same-sex couples in long-term, loving and committed relationships.

I also noted in my first speech to Parliament that I was proud to be Catholic and that I had been taught by my church and parents to respect and support other people's choices and to treat all people equally. Each person's experiences, their family environment and their spirituality define their sense of self. My own principles and morals, the philosophy of my party and my own experiences have led to my supporting the bill.

The Liberal Party has a proud tradition of supporting equality in the community. I refer to certain points of the party platform:

We believe in the fundamental freedoms of individuals and groups within society to think, to worship, to speak and to associate.

> …
>
> We believe in equal opportunities for all Australians in a tolerant society.
>
> We believe in the protection of vulnerable groups and minorities within society and the provision of effective assistance to people who are in ill health, disadvantaged or in need.
>
> …
>
> We believe in equality before the law.

The Liberal Party has a proud record on equal opportunity and in 1981 introduced the act that decriminalised homosexual relationships. Fifteen years ago this Parliament, with Liberal Party support, supported recognition of de facto relationships. The former Liberal Party Attorney-General, the Honourable Jan Wade, referred the issue of discrimination against same-sex couples to the Equal Opportunity Commission for review. The commission report that recommended changing the law, which we are debating today, sat with the Bracks government for 18 months before being formulated. I hope the government is willing to acknowledge the commitment of the Liberal Party to eradicating baseless discrimination and for supporting equity.

The family is the cornerstone of our society, and the success or failure of our community depends on the strength of each family unit and their commitment to supporting each other to overcome adversity, grief and the inevitable pressures of living in the modern world.

I am pleased to see many of the changes in the bill, one of which is the definition of 'spouse', which will apply only to married heterosexual couples. In that way I believe the sanctity of marriage, if I can use that word, is protected. The bill elevates same-sex couples to the same position under the law as de facto heterosexual couples, so I am pleased to see that the term 'domestic partner', which would have covered both marriages and de facto relationships has been changed. It is a fact that families come in all shapes and sizes and I believe each should be supported, regardless of configuration. A committed, loving relationship between adults is about commitment founded on sincerity and understanding which leads to tolerance, confidence and trust. It is about respect for each other's individuality and acceptance of each other's weaknesses, prejudices and faults. Real and true love is not a gift bestowed on heterosexuals alone. The bill gives individuals in same-sex relationships the same rights as those afforded heterosexual de facto couples and it does not lessen the importance of the traditional family unit in our society.

The fact is that many families are a combination of his, hers and ours; non-residential parents have rights of access to children after the failure of a marriage. The break-up of any long-term, committed relationship, whether or not children are involved, is horrendous for all concerned. All relationships, whether traditional heterosexual marriages, heterosexual de facto relationships or same-sex relationships may break down. In the breakdown of a long-term committed same-sex relationship an individual faces a doubled-edged sword. Not only do they have the trauma of the break up but further pain is inflicted by the law. When dealing with property disputes they are financially disadvantaged by the fact that their loving, committed relationship was with a person of the same gender. Examples have been given by other speakers in this debate of same-sex partners being denied the right to be a beneficiary of a partner's superannuation or accident compensation under the Transport Accident Commission or Workcover. For a heterosexual couple at the time of relationship breakdown the transfer of property is basically just paperwork but unfortunately under the law at the moment stamp duty is incurred on the transfer of property and vehicles for same-sex couples and that does not apply to either heterosexual de facto or married couples.

I sympathise with gay and lesbian people who face discrimination every day for their sexuality. Many find their own families cannot accept their orientation, and I say orientation and not choice because they do not consider their decision to enter a relationship with a person of the same gender a choice but more a fulfilment of the person they truly are.

This discrimination is even more painful in the case of a continuing relationship in the event of one partner falling ill, being injured or passing away. The Equal Opportunity Commission report outlines a number of examples where the treatment of the remaining partner has been absolutely unacceptable. There are cases where the partner has not been consulted about the health, prognosis or treatment of his or her loved one, cases where doctors, on the advice of the patient's family, have deliberately excluded them from any discussion, cases where the property partners shared was taken by the family after the partner in whose name the property was registered had passed away.

This bill is not just about changes in how the law deals with same-sex relationships; it is about protecting individuals who are subjected to abuse and discrimination from society and from families unable to accept the homosexual family member. It is about Victorians being tolerant and considerate in how they deal with others.

Having an up-to-date will and testament will alleviate much grief and confusion but, as has been outlined previously, entitlements to same-sex partners have been restricted by the laws we are changing today. It is absolutely imperative that all people have wills to ensure that their wishes are complied with in the event of their death. Young people most particularly should be confronted with their own mortality and make plans in the event of their demise. In this way the partners and the family of the deceased, particularly in the case of same-sex relationships, can avoid compounding the grief at the loss of a loved one.

I have received many calls and many representations from individuals who do not agree with the measures being debated. I have taken the time to read all submissions and correspondence I have received on this issue and I have also met with many individuals and heard their concerns. I respect their right to hold a view which is that gay and lesbian people do not deserve the same treatment as others in our community. I hope these people in turn respect my right to hold a contrary view. Unfortunately, the media portrayal of gay and lesbian people does little to assist in the acceptance of these individuals in the wider community. It has been put to me by gay and lesbian acquaintances that their long-term, committed and loving relationships are probably a little more domestic and normal than even my own. They enjoy sharing evenings in front of the box. They have barbecues, do the gardening, wash cars and go shopping. They live together on a genuine domestic basis in a loving, committed relationship because they have fallen in love. They deserve to be treated equally before the law and by our society and have the same rights as those in de facto relationships.

In closing I shall refer to a quote I found when revisiting *Tess of the D'Ubervilles* by Thomas Hardy, who wrote in an explanatory note in 1891 that he would ask that:

> … any too genteel reader, who cannot endure to have said what everybody nowadays thinks and feels, to remember a well-worn sentence of St Jerome's: if an offence come out of the truth, better it is that the offence come out than the truth be concealed.

I commend the bill to the house.

Hon. KAYE DARVENIZA (Melbourne West) — I am delighted to have the opportunity to make a contribution to the debate on this very important bill. In doing so, I speak in support of the Bracks government's commitment to a just society where individuals are not discriminated against because they are lesbian, gay men or transsexuals.

This bill is yet again another example of the Bracks government delivering on its election promises. Prior to our election to government in 1999 we gave a commitment to reduce discrimination of all kinds, particularly against people who are in same-sex relationships. In my electorate of Melbourne West — my office is in the Yarraville village — there is a large community of gay and lesbian couples. I am glad that they, like me, choose to live in the west, which is a great place to live, a great place to set up a home and to live your life. My knowledge and understanding of the level of commitment of such relationships is that they are absolutely no different from heterosexual relationships.

They have exactly the same ups and downs, the same highs and lows, and of course they have the same depth of shared commitment and love in their relationships, which deserve the same rights and protections as heterosexual relationships.

In Victoria gays and lesbians are different because they are not given the same level of legal protection as other citizens, and they do not have the same rights. The Bracks government wants to ensure that all people have protection and are not discriminated against and that everybody in Victoria has the same rights. That is certainly what I want to see, in particular in my electorate. The bill is a major step towards addressing what have been historic injustices in same-sex relationships. People have been discriminated against for decades, and the bill attempts to right that discrimination.

A recent report released by the Victorian Gay and Lesbian Rights Lobby entitled *Enough is Enough* tells us a great deal about the discrimination and abuse experienced by lesbians, gay men, bisexuals and transsexual people in Victoria. I do not believe anybody in this chamber would try to deny that these groups experience discrimination and abuse in their daily lives. Fear of discrimination and abuse forces many people to hide their sexuality and their gender identity.

Discrimination can take place in all areas of peoples lives — the workplace, at school and even among families. The main aim of the bill is to reduce discrimination against non-heterosexual couples, and it will impact in a very positive and real way on people's everyday lives. It will ensure that property transferred between same-sex couples will not be discriminated against with regard to tax, and it will provide recognition of same-sex partners when a partner dies without leaving a will. Surviving partners will be recognised and will have rights relating to the

distribution of a deceased person's estate. This may involve a financial interest in the couple's shared home.

Many in this chamber on both sides of the house know of situations where grieving partners have lost their homes in these circumstances. Family members who are the next of kin have thrown people out of their homes, and grieving partners have been left without their equity and interest in the home. There have been times when people have not even been included in organising the funeral of their partner. The bill will prevent those situations from occurring because it will protect grieving partners by giving them legal rights.

I briefly turn to the area of medical treatment. Because of my experience in the health industry and having worked for many years as a nurse prior to my life in politics I can speak with some first-hand experience. Situations arise where some same-sex couples do not have the same rights as others when their partner enters a hospital and becomes part of the medical system. A treating professional has the right to refuse to consult with or provide information to a same-sex partner in what can be life and death situations. Many doctors, nurses and other health professionals in our health system are sympathetic and understanding and recognise their moral obligations to include a same-sex partner in discussions and provide information. However, people can find themselves in an emergency situation where they cannot choose their doctor. The treating health professional may not be sympathetic and may not include the same-sex partner in the discussions and in the information that is so vital when somebody is critically ill. In that sense same-sex couples are very much discriminated against.

I have seen situations where same-sex couples have been denied the right even to visit their partners when they have been in a critical condition in hospital. The same-sex partner is not the next of kin, so in those important and often critical situations, when emotions are running high and people are distressed and distraught, same-sex partners must rely on the kindness of medical professionals and family members, and as we know these people are not always kind or understanding.

The bill is important because it gives people legal rights, and they will not have to rely on the kindness and understanding of others when they are in a position to choose a doctor or a hospital. The bill will ensure that people are not discriminated against in this way. People will be able to rely on the legal protection they will have under the bill to ensure they are not discriminated against.

I turn to the consultation process the government went through in putting the bill together. As with all of the government's legislation, it has been open and consultative in making sure the community understands what it is attempting to do and why it is attempting to do it. Once again the Bracks government has moved through the community and consulted broadly and widely before bringing the bill before the house. The government set up an advisory committee that had a clear term of reference: to reduce discrimination against same-sex couples in Victoria. The committee comprised representatives from the community and government agencies.

It developed a discussion paper that was widely distributed. Forums were set up and people had the opportunity to make submissions on the discussion paper. A web site was set up. Like most honourable members, I received many letters and emails on this issue. A great deal of debate and discussion has taken place. The recommendations of that advisory committee formed the basis of the bill before us today.

This good bill deserves to be passed. It does not encroach on the status of marriage; in fact, it does quite the reverse. The bill restores the definition of spouse to its original meaning as a party to a marriage. It also recognises for the first time heterosexual de facto couples in a number of areas of law. However, most importantly, it addresses decades — I mean decades! — of discrimination against same-sex couples, giving them the legal rights and recognition they deserve both as individuals and in their relationships. I commend the bill to the house.

Hon. P. R. HALL (Gippsland) — The decision taken by the National Party to oppose this legislation was not taken lightly.

Hon. Kaye Darveniza — Shame!

Hon. P. R. HALL — Indeed, its position on the bill was well expanded by the lead speaker, the Honourable Roger Hallam. It is a serious debate, and I take exception to the interjection of the Honourable Kaye Darveniza before I had even started to elaborate on some of the reasons for that position. It was not a decision we took lightly; it is an issue of grave importance to members of the National Party and an issue which, as the Honourable Roger Hallam said, we canvassed widely before finally reaching our position.

Hon. Kaye Darveniza — I still say shame.

Hon. P. R. HALL — I say the shame is on you, Ms Darveniza, because you do not even listen to people's arguments and views in this house.

I will take the house briefly through some of my personal views about the matter, give some commitments to the chamber and the people of Victoria for the future and elaborate on some of the views and issues canvassed by the National Party in its deliberations.

Firstly, the National Party respects the fact that all members of the community should be free to choose the way they live as long as that choice does not unduly impact on the livelihood of others. Secondly, I and my National Party colleagues do not believe sections of our community should be the subject of negative discrimination, nor do we believe they should be favoured.

I believe some sections of society are discriminated against and that all members of the community should work together to address those areas of discrimination. The Parliament cannot do it; the enacting of legislation will not in itself address discrimination as widespread community support is needed to effectively address discrimination in some sections of the community.

I am even prepared to concede that on my limited knowledge of the law same-sex partners may in some instances be discriminated against by the present laws, and I will say more about that in a few moments. However, balanced against all those things is my strong belief that the traditional family structure of a marriage between heterosexual partners best serves the requirements of the raising of children and the promotion of enduring relationships.

Let it be said that the shame is on the Honourable Kaye Darveniza, who does not even wish to hear the views of some members of Parliament. She is the only person who has had the gall to interject in this proper and sensible debate.

While marriage and the traditional family structure can never guarantee all we would want it to, I believe it provides us with the best opportunity for children to develop and grow in a loving and caring environment.

Before entering Parliament I spent some 15 years working with young people. When you spend 4 or 5 hours a week with children, you get to know them fairly well. You get to know when children are happy and when things are upsetting them. You can generally tell when a child comes from a loving, caring and stable home environment. I admit quite readily that a child can have a loving, caring and stable home environment within all sorts of family structures, and I agree that a child can be better off being raised in a loving single-parent family, for example, than by a married couple who quarrel frequently. However, I believe that on balance the traditional family structure involving a married heterosexual couple provides the best environment for raising children because it is most likely to provide the security, stability and role models that all young people require.

Support for the traditional family structure is of fundamental importance to members of the National Party and we believe it should not be compromised in any way. Some may argue that those traditional values are not compromised by the bill. I believe they are to the extent that the bill says the act of marriage is no longer as important as it once was. I think it is important, and that is why I and my National Party colleagues have come to the conclusion we have about this bill.

I return to the point I made earlier about believing that discrimination against any section of our community needs to be addressed. The second-reading speech states that the bill will ‘reduce discrimination against non-heterosexual couples’, and it proposes to do that by amending some 44 acts of Parliament. The Parliament normally passes about 44 pieces of legislation a session; yet by one single bill we are being asked to consider and make a judgment on the implications of amendments to 44 separate acts of Parliament! There is no way any of us can give the detailed consideration required to analyse fairly the impact of the proposed changes on any one of those pieces of legislation, let alone all 44.

The second-reading speech comments on the effect the changes will have on just one of those 44 acts — the Property Law Act — but it makes scant comment about the implications of those changes. It is unreasonable to expect this house to be able to give fair consideration to the impacts of changes to 44 pieces of legislation proposed by a single bill.

I said earlier that I am prepared to work to reduce discrimination, and I would be prepared to give careful consideration to any one of those 44 acts of Parliament if they came before us and we were given ample time and opportunity to do so. I understand the bill does not propose amendments to the infertility legislation or the Adoption Act because some related issues require detailed consideration. That is fair enough, and we will look at those when they come up. However, I believe the changes to the 44 acts proposed by this bill will have important implications that we need to look at individually and give each the time and consideration it deserves. That may take some time, but so be it; we have a responsibility to legislate in this Parliament only after proper detailed consideration of the implications

of the changes we are proposing, and this bill raises important and profound issues.

As has been said by other speakers, the bill has generated much public interest. I and other members of this house have received representations from a variety of people, not just those based in my electorate but also from right across Victoria. Those representations have overwhelmingly urged me to protect traditional family values by voting against the legislation.

As I said earlier, if there are fundamental problems in existing pieces of legislation that discriminate against a section of our community — not just people in same-sex relationships but any section of our community that is discriminated against by Victorian statute — I would be happy to look at them on an individual basis.

After listening to the views of all those who have contacted me, my personal belief of heterosexual marriage being the model of relationship that should not be compromised in any way and should indeed be promoted in our society leads me to the conclusion that this bill cannot be supported.

Debate adjourned on motion of
Hon. P. A. KATSAMBANIS (Monash).

Debate adjourned until later this day.

HOUSE CONTRACTS GUARANTEE (HIH) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. M. R. THOMSON (Minister for Consumer Affairs).

Sitting suspended 6.27 p.m. until 8.03 p.m.

HOUSE CONTRACTS GUARANTEE (HIH) BILL

Second reading

Hon. M. R. THOMSON (Minister for Consumer Affairs) — By leave, I move:

That this bill be now read a second time.

The House Contracts Guarantee (HIH) Bill implements the rescue package that the government announced on 14 May for house owners whose builders' warranty insurance cover has been adversely affected by the collapse of the HIH Insurance Group.

The collapse of HIH is probably the biggest corporate collapse in Australia's history. The ramifications of the collapse are being felt in many businesses and communities. The state government has moved as quickly as possible to provide relief for the home owners and builders who have been so destabilised by the HIH debacle.

Builders' warranty insurance covers home owners for up to seven years in the event that their builder is unwilling or unable to complete a new home or renovations or remedy building defects that have become apparent during that time. Without builders' warranty insurance, builders cannot build; home owners are not protected against defects or the financial failure of their builder; and home owners cannot sell their house.

Builders' warranty insurance is a unique product. Its form and the nature and extent of the coverage provided is specified by ministerial order. It is purchased by builders, to whom it generally provides no protection. Builders' warranty insurance protects home owners who ultimately hold the policy but who do not choose the insurer who provides the cover. It creates a direct obligation to home owners by the insurer, unlike, say, professional indemnity insurance which indemnifies a professional person but does not create a direct liability on the insurer to that person's clients in the event of a claim.

The government accepts that, while the state does not have a legal obligation to assist home owners who are no longer adequately covered by builders' warranty policies issued by HIH, it nonetheless has a moral responsibility to do so.

Our community also would expect the government to minimise the adverse effects of the HIH collapse and do everything reasonable to keep the building and associated industries in Victoria moving. There are three main problems that have arisen as a consequence of the HIH collapse:

the difficulties faced by some builders in obtaining ongoing cover for new building work, leading to financial problems for those builders, delays for people waiting for new homes to be built, and disruptions for subcontractors, suppliers and the building industry generally;

delays in property sales and settlements because of doubts whether builders' warranty insurance underwritten by HIH as shown on the section 32

certificate satisfies the legal requirement for ongoing insurance; and

the lack of adequate protection for home owners whose houses or renovations have not been completed or have defects and their builder is unable or unwilling to complete building or remedy the defects.

This bill addresses all three of these problems and complements other administrative actions taken by the government and the building and insurance industries.

Turning to the details of the government's proposals, this bill:

establishes a state indemnity scheme to take over HIH claims;

provides for the Housing Guarantee Fund Ltd — HGFL — to manage the scheme on the state's behalf;

establishes a separate fund into which all receipts relating to the scheme must be placed and from which all expenses relating to the scheme must be paid;

allows for the making of claims, subject to a claimant's rights of recovery against other parties being assigned to the state;

provides for an additional building permit levy to meet part of the cost of the scheme;

enables HGFL to recover costs from builders to the extent that HIH could have done so and to take action against builders who do not contribute as required;

enables the Building Practitioners Board not to impose the mandatory suspension on builders who do not have the required insurance at the time of their registration, provided that delays consequent on the HIH collapse are the only reason for their not having insurance;

protects home owners' rights to contest decisions made by HGFL in respect of claims; and

overcomes concerns about the validity of HIH insurance cover in relation to property settlements.

HGFL currently handles and is liable for the outstanding claims under the former housing contracts guarantee scheme, which was terminated when the current privately written builders' warranty insurance regime was introduced five years ago.

HGFL is a company established under Corporations Law. It is a controlled entity of the state. Its experience in dealing with issues relating to domestic building defects and completion of building works makes it the most appropriate vehicle to manage this scheme. The bill provides for the memorandum of association of HGFL to include clauses permitting it to undertake this task. The government appreciates the willingness of the directors, management and staff of HGFL to accept these additional responsibilities.

The bill makes it clear that HGFL's responsibilities are those of an agent of the state. HGFL is not assuming any liabilities in respect of claims against HIH, nor having assigned to it any rights. Those liabilities and rights remain with the state. The scheme will be managed by HGFL entirely separately from its existing responsibilities in respect of the former housing contracts guarantee scheme, and the bill clearly provides that HGFL's assets are not available to claimants under this HIH builders' warranty insurance indemnity scheme.

The bill establishes a separate fund, the Domestic Building (HIH) Indemnity Fund, to handle all financial transactions relating to this scheme. This fund will be audited by the Auditor-General, and its audited financial statements published. The fund is required to have paid into it money appropriated by the Parliament to cover claims and the costs of claims, money raised by the new building permit levy, money recovered from builders and other persons, distributions from the liquidator, and investment income. Paid out of the fund will be amounts paid in respect of claims, HGFL's administration costs in respect of this scheme, including legal costs, the Auditor-General's audit costs, and amounts returned to the consolidated fund.

The bill establishes an indemnity from the state in favour of a home owner for claims made to HGFL for events that would have been covered under a HIH builders' warranty insurance policy had HIH continued in normal operation. In return, the claimant is required to assign his or her rights of recovery from other persons, including a liquidator, to the state. The bill explicitly provides that the indemnity provided by the state does not apply to:

a builder or owner-builder;

events (if any) that are covered by any other contract of insurance;

events for which full payment has already been made; and

events that have already been finally determined by VCAT or the courts not to give rise to a valid claim.

The indemnity applies only to works for which a building permit was issued before 30 April 2001. The Building Control Commission informed building surveyors on 6 April 2001 that they must not issue permits unless current insurance cover underwritten by an insurer other than HIH was in place.

The scheme will cover works commenced on the basis of a building permit issued before 30 April 2001 but not completed until later — i.e., works in progress. The government is aware that some commercial insurance cover is available for works in progress, and that some policies have been written. The government and its advisers considered very carefully whether it would be possible to make commercial work in progress cover mandatory. However, the conclusion reached was that this was not practicable. It might leave some works that were completed in recent weeks without cover, and it would be unacceptable to the government to expose the unfortunate owners to this risk.

The government acknowledges the time, effort and resources put into developing a work in progress insurance product by the insurance industry.

Honourable members should note that the scheme does not apply to domestic building works that had not commenced before 31 May 2001. In certain circumstances a builder will need to obtain a fresh permit and insurance for these works to proceed. Any builder who is about to start building or renovating a house pursuant to a building permit issued before 30 April 2001 with HIH insurance cover must obtain replacement insurance before starting that work.

The government has determined that the costs of the scheme will be met by equal contributions from the building industry and the consolidated fund. The bill provides for an additional building permit levy of $32 for every $100 000 value of domestic building works, an increase of 50 per cent in the current levy. Amounts raised from this additional levy are to be placed in a separate account and transferred to the new fund managed by HGFL. As with the current levy, this additional levy only applies to building works valued at more than $10 000.

It is estimated that this levy will raise some $2 million a year. The government gives an undertaking that the new fund will be closely monitored and reported publicly to ensure that the 50-50 balance is achieved.

The bill provides that the levy will cease to operate from 30 June 2010, but may be discontinued earlier.

The bill provides HGFL will have similar powers to those of insurers to recover costs from builders, and to take action against builders who do not contribute as required.

The government has been very concerned about the disruption to the building industry that has resulted from the HIH collapse. The remaining insurers have had to cope with a flood of applications for ongoing insurance from builders formerly insured by HIH.

While the backlog is now steadily being cleared, the industry and the Building Control Commission remain concerned that not all applications for insurance will be processed before builders' registration renewals are considered by the Building Practitioners Board on 13 June. Currently suspension of registration is mandatory if a builder does not have insurance or proof of eligibility for insurance when annual registration is renewed. The bill therefore provides a discretion for the Building Practitioners Board not to impose the mandatory suspension on builders who do not have the required insurance at the time of their registration, provided that the builder has applied for insurance and not had that application denied, and there is no other reason for suspension. This discretion applies until 31 July 2001.

The bill protects home owners' rights to contest claims decisions made by HGFL through VCAT or through the courts. The bill also empowers HGFL to enter into agreements with the liquidator or provisional liquidator, on the approval of the minister, in relation to certain rights and obligations of the liquidator. While it is not possible for a state to extinguish certain rights and responsibilities that are provided under commonwealth law, it is the state's intention to negotiate with the provisional liquidator, or liquidator if one is subsequently appointed, for a reasonable settlement of certain issues. Preliminary indications are that the provisional liquidator is willing to enter into such negotiations that will streamline his administrative processes without detriment to HIH creditors.

Finally, the bill aims to overcome concerns regarding the sale of houses which have HIH builders' warranty insurance cover. A number of property settlements have been delayed through concerns that the section 32 certificate required under the Sale of Land Act 1962 names a company in provisional liquidation as the insurer. The creation of this state government indemnity scheme alleviates that concern, as successor owners can bring claims under the builders' warranty cover to HGFL. The bill makes explicit provision that the presence of HIH insurance is not a barrier to the sale or settlement of houses.

Mr President, in closing I would like to thank the many organisations outside government who have assisted in the rapid development of this proposal. These include the Housing Industry Association, the Master Builders Association, Dexta Corporation Ltd, Royal and Sun Alliance and the Housing Guarantee Fund Ltd.

I also extend the government's appreciation to the cooperation of all parties who have agreed to fast-track this legislation so that home owners and builders across Victoria can find some relief from the HIH debacle.

I commend the bill to the house.

Debate adjourned on motion of Hon. D. McL. DAVIS (East Yarra).

Debate adjourned until later this day.

STATUTE LAW AMENDMENT (RELATIONSHIPS) BILL

Second reading

Debate resumed from earlier this day; on motion of Hon. M. R. THOMSON (Minister for Small Business).

Hon. P. A. KATSAMBANIS (Monash) — It is with pleasure and a great sense of relief that I speak on this bill, because it seems like an eternity ago that the bill in its original form was introduced into the other place. In the intervening period, which in fact was probably only a couple of months, it has undergone a significant transformation that will ensure that it will pass to the statute book and become a law of the state of Victoria.

It is a pleasure to stand in this place and, as a Liberal, affirm the principles behind and support the passage of such a bill. As a Liberal, even before I came into this place, I have always believed in fairness, in equality and in the dignity of and the opportunity for each individual in our state to live their life free from undue interference and to enjoy the rights, privileges and responsibilities that are conferred on each of them as citizens of our great state and our great nation. It is those sorts of principles that this bill enshrines in law.

It is a bill which does not remove rights or infringe upon the privileges of anybody but which extends a series of rights, privileges and responsibilities to a section of our community that previously has not been afforded those protections of our law. So in many ways it is a win–win situation: it does not take away from anyone else, but it extends rights and privileges — and with those rights and privileges, onerous responsibilities in some cases — to some people in our community.

For that the public of Victoria should look at the process we have undertaken as members of Parliament — irrespective of our political party representation and of our individual views, prejudices, values or morals — to ensure that this bill becomes a reality. In many cases the arena of Parliament and the political process are seen as overtly adversarial, with many members of the public looking into our processes and believing that in many ways that adversarial role is undertaken simply as a show or a charade that hinders rather than helps good government and therefore hinders rather than helps the public of Victoria.

But the process that has been undertaken by both the government and the Liberal opposition in this case indicates that this does not have to be so and that there are ways political parties can work together to effect positive outcomes rather than turning what is a difficult area of the law into a political football for petty, short-term point scoring at the expense of good law and good policy. I am proud to stand in this place and say that I played a part in making sure we went down the right track rather than the wrong track in this regard.

The Statute Law Amendment (Relationships) Bill ensures that people living in long-term, committed relationships in the state of Victoria will have a set of laws governing areas such as the distribution of property upon dissolution of their relationships; the receipt of compensation in cases where compensation needs to be received; superannuation; health legislation; the criminal law; and consumer and business legislation. It ensures that people living in relationships in Victoria have the protection afforded under those pieces of legislation, irrespective of the gender of those people.

In that regard the bill takes heed of and gives effect to an important notion of our justice system. Colloquially it is said that Lady Justice is blind and sees nothing but justice. Just as she does not see colour, creed, race and religion, nor should she see sexuality as a barrier to justice. The bill gives effect to that notion, that maxim of our legal system, in more than 40 pieces of legislation.

Far from denigrating the institution of marriage, in many ways the bill elevates the institution of marriage into a separate category of law. Many pieces of legislation in Victoria treat marriages and heterosexual domestic relationships equally — not all, but a large number of pieces of legislation — but the bill creates two distinct categories: one of married people and the

second of all those people living in domestic relationships, be they of different sex or the same sex. Those categories of married people living in a relationship and people living in any other form of domestic relationship are the crux of the bill and the amendments it makes to the other acts.

The bill does not in any way threaten the sanctity of marriage or threaten or take away any of the rights of married people or children. There were issues relating to the impact on children when the bill in its original form was introduced in the other place, but they were issues that had not properly been taken into account. However, through the process I outlined earlier, of discussion and deliberation between the parties, the Liberal Party highlighted those issues and offered suggestions as to how they could be addressed. To its credit the government accepted those suggestions and moved amendments in the other place to ensure that in the break up of relationships the interests of children are not prejudiced in any way, shape or form.

The bill has caused a lot of public comment. A lot has been said about the rights it confers on certain groups of people. Yes, it does confer rights on people living in long-term, committed same-sex relationships, but it does not confer those rights at the expense of anyone else in society. It extends to one group in our community who did not have laws to protect them — a set of laws that govern relationships and their conclusion and dissolution. With those laws come obligations and privileges.

To highlight that one need only look at schedule 6, which deals with consumer and business legislation. Nearly every change made in that schedule extends a possible penalty to people in a domestic relationship to effect the protection of the public of Victoria. In acts such as the Co-operative Housing Societies Act, the Goods Act, the Motor Car Traders Act, the Partnership Act, the Prostitution Control Act, the Retirement Villages Act, the Second-hand Dealers and Pawnbrokers Act, and so on, the legislature has determined that if a person is not a fit and proper person to undertake a particular task, profession or trade, such as being a motor car trader, a second-hand dealer, running a retirement village or a brothel or being a partner in a business partnership, as is envisaged by the Partnership Act, that person's spouse should also be forbidden from undertaking that job. That is done to ensure no undue influence can be exerted. In the past someone caught running a shonky motor car company could set up his wife or her husband as the director of the company, but behind the scenes they would still be running the show. That is forbidden.

By the amendments to those acts Parliament is now extending that sort of prohibition to same-sex couples, and so protecting the public of Victoria. That is not a right or a privilege, but an obligation that comes with being in a relationship. That obligation is being extended. The obligation is imposed as an important matter of public policy to protect the public from bad or shonky operators, and it is being extended. When people talk of extending rights, they should realise that in our law obligations flow with those rights.

Other speakers have highlighted the great tradition in the Liberal Party over many years of supporting legislation that removes discrimination; supporting legislation that affirms equality; supporting legislation that elevates the dignity of each individual Victorian to the primacy of legislative process. With this bill the Liberal Party once more affirms its commitment to equality, to the dignity of the individual and to the removal of discrimination where no penalty is imposed on any other member of the community. That is what the bill does in its agreed and determined format, which will include the amendments the government will move during the committee stage.

I have spoken before about the fact that we are not living in a time capsule. We are not living in a world comprising neat rows of picket fences with mum, dad and the 2.5 children.

The bill, apart from giving effect to good law, solid principles and values of Liberalism, takes notice of the reality of living in 2001 where marriage is still a predominant feature of our landscape. Most of us in this house — I think all of us — would agree that marriage is an important component of providing cohesion in our society, but we must recognise that many thousands of people are in relationships outside of marriage, be they people of the same sex or of different gender, because they choose to do so.

Where a government decides that it will set up a legislative framework to govern the conduct and dissolution of relationships, it cannot pretend that certain types of relationships do not exist. We cannot live in a pretend world or in a bubble. We must provide a framework for relationships that come to an end, and that must be determined fully and properly under the auspices of our law. We do that in marriages through the commonwealth Family Law Act. That act governs how you dissolve a relationship between married couples. For those in Victoria living in heterosexual domestic relationships the dissolution of the relationship and their assets is provided for in the Property Law Act. To extend the legal protection and the legal framework to another section of our

community is to accept modern reality. It is not casting moral judgments or aspersions. It is accepting reality that these relationships exist and it is reaffirming for the individual those Liberal values of dignity, equality at law and protection against discrimination.

There is nothing sinister about the bill at all. I understand that many members of Parliament and the Victorian community are not exposed to people living in gay and lesbian domestic relationships. I have pointed out in this place previously that in my electorate it is an everyday occurrence. Numerous discussions were held with individuals and groups on elements of this bill which at first were thought to be offensive to the Liberal Party. In the middle of negotiations with the Victorian Gay and Lesbian Rights Lobby and other members of the gay and lesbian community I would sometimes stop and smirk to myself when I received a telephone call from my wife or children. In one instance halfway through a meeting my wife arrived at Parliament House and left the children with me because she had to go to work. I sat back and thought, 'This is just as normal as any other group of people getting together'.

On many occasions in this house I have referred to racism and prejudice against people on the basis of their sexuality. Nothing beats living on a day-to-day basis with people we might have considered to be different because the more time we spend with them the more we realise that we have much more in common with them than the things that divide us. It is exactly the same with people in gay and lesbian relationships. I plead with those who still cannot bring themselves to accept the fact that this is reality in Victoria today. They should speak to people like Nan McGregor who will open up their eyes to what it is like to deal with families living in loving domestic relationships and other people who might not be living in such loving relationships. You soon realise that at the heart of a relationship is love, care and affection rather than whether someone is in a marriage or is of a different gender to the other person in that relationship.

There is more binding us than driving us apart. If we focus on the things that we have in common, the fact that we want to live in long-term loving relationships, then this world would be a much better place and there would be less prejudice. I call on those who cannot accept the reality to try to put their prejudice aside for a split second in the same way that people had to put their prejudices aside 30 or 40 years ago when many migrants came to this country, or even the most recent migrants, because that is a good analogy. I hope we can bring those people with us in the future.

Many examples have been cited to me by people with whom I deal daily about the discrimination they have had to suffer as a result of not having the rights, obligations, privileges and entitlements that other people in relationships have in this state. One example, which goes to the heart of what this bill does, is from the Victorian Gay and Lesbian Rights Lobby. In its publication *Making Love Legal* there is a case study. One partner, Brian, states:

> When my partner and I separated (amicably) after 18 years, I was forced to pay the government … $14 000 because I was buying the property off him and we weren't of opposite genders.

If Brian and James in this example could avoid paying stamp duty, what harm is being perpetrated on marriages, families or children? None whatsoever! But if we allow that sort of division to continue, the harm that is taking place is that people like Brian and James will feel like second-class citizens and their relationship of 18 years is viewed by our community as being of lesser standing than someone else's domestic relationship of 18 years because they are not of opposite gender.

It is those anomalies that the bill is correcting. They are real-life examples. Other honourable members have highlighted them, and nothing in the bill is changing anything for the people who currently have rights. The bill extends those rights to one more group of people, and that can only be a good thing.

As I said at the outset, in our deliberations, as members of Parliament, on the bill we have forged a new way in dealing with complex and difficult issues of conscience, morality and core values. For that I must commend many people, including all the people from the Victorian Gay and Lesbian Rights Lobby, particularly Miranda Stewart, Chris Gill and Jamie Gardiner who were in constant contact with me over that time.

I have to commend the representatives of the government, in particular the honourable member for Richmond in the other place and the staff of the Attorney-General's office for undertaking tough but fair negotiations that were always based on the premise that groups of people on opposite sides of the political fence would much prefer to get a positive outcome for Victorians than have a big, public fight over a piece of legislation at the expense of a group in our community.

I commend my colleagues in the Liberal Party, especially the honourable member for Prahran in the other place, Leonie Burke. I also commend the Honourables Andrew Olexander and Andrea Coote, who have all been pillars of strength in this challenge. I

especially commend the Leader of the Opposition in the other house, the honourable member for Portland, because he wanted to see an outcome rather than a big political argument over the bill.

As a result of many people from different walks of life, different political parties and different philosophical views coming together we have been able to get a piece of legislation that addresses the proper concerns of the Liberal Party — that is, concerns about families and children in the main, as well as the concerns its members had about good law. It provides us with a bill that we can pass into the law of Victoria.

Earlier this year I was one of a number of members of Parliament who took out an advertisement in the Midsumma Festival guide suggesting, 'We will fight for you'. Many people then asked me, 'What does that mean? What will you do for us?'. I have been consistent on this issue all along. I said, 'I will fight for you'. I made that pledge to all Victorians to ensure that every Victorian is treated as equally under our laws as is possible. I have had one opportunity with this bill to demonstrate that I will fight to ensure an equality of law that addresses discrimination and allows every individual in Victoria to feel that they are an equal member of our society to be enshrined into our law.

I cannot judge whether I have executed my commitment or pledge fairly or fully, but I put my cards on the table and say that many people questioned not just my commitment but the commitment of the 13 other colleagues who took out the advertisement with me.

Hon. A. P. Olexander — Nineteen.

Hon. P. A. KATSAMBANIS — Thank you, Mr Olexander — the 19 other colleagues. Many people questioned our sincerity and commitment. They made derogatory comments about our intentions being less than faithful and above board. I say now, 'Here are our actions; judge us by them'.

In closing my contribution, I point out that the bill has been a long time coming. When I contemplate it I think of some of my friends who the bill may well have benefited but who will be unable to benefit from it. In that instance I think of a particular and very important friend in my life who is no longer with us. It is not fair that those people were not able to benefit from this legislation, but today we will go a long way towards ensuring that in the future every other person in Victoria living in a domestic relationship, irrespective of gender, can hold their head high and know that laws created to govern relationships apply equally and that they are all equal citizens.

I make a final point to my National Party colleagues who have spoken with firm conviction on what is a difficult area of public policy and morality. I understand exactly where they are coming from, but in my deliberation on the bill one person who shall remain anonymous said to me, 'Have you contemplated the reasons behind the fact that in rural Victoria the suicide rate is significantly higher than in the remainder of Victoria or Australia, and it is particularly significantly higher among young males?'.

I do not for one moment suggest that there is an easy answer to the critical problem of youth suicide in our society. I do not suggest that there is a simple, single or easy answer, but I had not considered it until it was raised with me. People who feel marginalised or discriminated against, and people who feel they are treated by the society they live in as being less equal than others will unfortunately resort to terrible behaviour.

Hon. A. P. Olexander — Self-destructive behaviour.

Hon. P. A. KATSAMBANIS — It could be self-destructive behaviour at the extreme, Mr Olexander. Today when I hear the voices of prejudice I worry about the messages we continue to convey to people in our society about being inclusive rather than exclusive.

This bill is good law. It started off being well intentioned but maybe not good law. It affirms Liberal values and Liberal principles. It ensures that the sanctity of marriage, and the sanctity of the family and children in our society are fully protected, but it also ensures that members of a group in our community who live in same-sex relationships are afforded the full protection of the law of Victoria without diminishing the rights or privileges of any other group in our society. It is good legislation and with the amendments to be moved later, it is legislation that I am proud to commend to the house.

Hon. J. M. McQUILTEN (Ballarat) — It is not usual for me to speak with pride about being in this Parliament, but today I do so. Before I explain why, I suspect I need to put down some credentials to enter the debate. My first credential is that I come from regional Victoria, where the debate on the topic is not popular. The second is that I am now in my 30th year of being married to Rosa. I am only 51 years old, although I might look 60! I have two wonderful children whom I

love and adore — they are incredibly precious to me. I think what keeps my family together is a mix of things. I do not think my family is much different from many other families or partnerships. What keeps my family together — no. 1 is love. In this place we do not talk about it enough; we do not give love the exalted position it should have in the way that men and women live their lives.

Another word that is very important in my life, that of my family and of everybody is responsibility — that is, that each of us is responsible for our fellow men, fellow women, our children, our partner's children — whatever. That is very important.

Another word that is not used enough — I will talk about it in another speech — that to me really goes to the heart of being a good human being is honour. It is never used and no-one seems to know what it is about. Relationships that stay together have a huge amount of honour about them. You may not always love one another and may not be lustful of one another forever but as long as you honour one other, that is incredibly important. Responsibility, love, honour — all these things are part of my life.

I am very happily heterosexual and very happily a family man with two beautiful sons but I am proud to be a member of this Parliament today because of a number of shining performances by a number of people and groups. Firstly, I must congratulate the Attorney-General, Rob Hulls, who put forward this visionary, fair and reasonable updating of our society. Secondly, I must congratulate the honourable member for Richmond in the other place, Richard Wynne, who was incredibly important and who while the Attorney-General was sick did some very hard negotiating and worked and worked and did a wonderful job and tonight has achieved what he set out to do and was obliged to do for his minister, who was very ill. I honour those two people.

Tonight I also honour the moderates in the Liberal Party, who I know went through a very hard tussle within the Liberal Party to secure the success of the bill. In particular, I congratulate two people I am aware of who have had a lot to do with that, as far as I am concerned. One is the Honourable Andrew Olexander. It is very rare in political life in this place for a person to actually put his neck on the line. The Honourable Andrew Olexander put his neck on the line and because of that he will always have my admiration. The second person I congratulate is the Honourable Peter Katsambanis, on his negotiating skills, effort and enthusiasm. Again I congratulate the Liberal Party overall on supporting the bill. I commend the bill to the house.

Hon. E. J. POWELL (North Eastern) — I put on record at the beginning of my contribution that the National Party opposes the bill. The Honourables Roger Hallam and Peter Hall have put the National Party's view well. I have sat in this house and listened to the debate from the start. We have heard some excellent contributions. Most people have spoken with honesty and a lot of passion. The decision of the National Party was not arrived at easily. Members of the National Party undertook a lot of consultation and believe their decision represents the views of those people who elected them to represent them in Parliament.

As has been said, the bill was tabled in August last year and the document before us today is quite different from that tabled then. I have consulted many people in my electorate, as have most of my National Party colleagues because we knew the bill was going to be controversial. People have not addressed the bill lightly. People have gone through their consciences and have spoken at length to members of their communities to find out what they have to say about it.

In the electorate that the Honourable Bill Baxter and I represent there was overwhelming opposition to the bill. Many people came to my office to speak to me and many telephoned and emailed me. Huge numbers of letters and emails came through my office and I know that other members of the National Party received similar letters and emails.

The Honourable Andrew Olexander gave a very open, honest and passionate speech. He told us a lot about what it is like to be in a same-sex relationship. He also read three letters from people who live in rural Victoria and felt they could not go to the National Party or the Victorian Farmers Federation and went to the Liberal Party to put their concerns. I probably had about 30 times more letters than that asking us to oppose the bill. There were many reasons given, not just religious reasons but also on the grounds of morals and the protection of the status of marriage.

That is the background to the National Party's position. Many honourable members have said that marriage is absolutely important. The National Party believes the family is the cornerstone of our society and we must protect the status of marriage and the family. When the National Party consulted, that was the first thing that people asked us to protect and promote.

The bill also changes the definition of relationships. The Honourable Peter Katsambanis said we cannot put

our heads in the sand, and that there are many relationships out there. The National Party does not disagree with that. Society is changing. At the same time, however, the National Party is opposed to the bill. It is not saying it does not recognise there are same-sex couples in loving, long-term and committed relationships. The Labor government said it brought in the bill to end discrimination against same-sex couples. That may be the case, but it is also encouraging discrimination against marriage. You cannot talk about believing in the sanctity of marriage and then introduce a bill that diminishes the status of marriage between man and woman. There is an old saying — I do not know who said it but I wrote it down, as I often do when I find something I think means something — that you cannot strengthen the weak by weakening the strong. That means you cannot strengthen an alternative to marriage by diminishing the status of marriage.

Government members have said that Labor went to the polls with a pre-election commitment to giving certain rights to lesbians, gay men and transgender people. Many of my constituents have advised me that they did not know that was a commitment. Even those who voted for the Labor Party were not aware that it was a Labor Party commitment. So it was not well known in the community.

Labor members also talked about consultation. My constituents say there was no consultation with any groups other than lesbian and gay lobby groups and their supporters. Obviously, if you are to introduce a bill to support these people you need to find out from them first whether this bill will help them in the way it says it will. I have no problem with that, but there was no consultation across the broad spectrum to discover whether this bill would work, whether it goes too far or not far enough.

David Perrin, vice-president of the Family Council of Victoria, in a letter of 13 February, wrote to all members of Parliament. The letter states:

> The Family Council of Victoria believes that the Statute Law Amendment (Relationships) Bill should be defeated.
>
> The bill will undermine committed marriage, children, spouses and families and is not in the interests of the wider community.
>
> There has been no public consultation on the social impact on undermining committed marriage, functioning families and the welfare of children.
>
> Enclosed is a fact sheet detailing the arguments against the bill for your information.
>
> This legislation will have a major social impact on Victoria and will impact on every part of our community. Accordingly, it should be defeated.

I will not go through all of the important issues included in that fact sheet, but I put on the record that the Family Council of Victoria states that the Statute Law Amendment (Relationships) Bill must be defeated because it will undermine marriages by extending privileges currently enjoyed only by married heterosexual couples to homosexual and de facto couples. It will undermine children's rights to be raised by a mother and a father. It will undermine spouses who will now have to compete with domestic partners. It will undermine families, as there is no distinction between relationships that uphold stability, fidelity, morality and permanence in marriage and those that do not. It states that Parliament must legalise a preferential status to committed marriage. Children, spouses and families benefit because committed marriage is essential for a stable, civil society.

There are many more issues, some with which I do not particularly agree but many with which I do. A letter by R. Wallace in the Your Say column of the *Herald Sun* of 28 April 1999 headed 'Marriage is the Real Thing' states:

> G. Robertson correctly states that couples can choose to live in de facto relationships and others have no right to be judgmental. (*Herald Sun*, 19 April).
>
> But to equate such a relationship with marriage is like equating a counterfeit note with real money, the copy with the masterpiece, the shadow with the substance. Marriage involves couples who have solemnly and sacredly chosen to make a lifetime commitment to each other. Couples who have displayed their courage and faith in each other by making such an awesome commitment are truly husband and wife. Those who do not, are not. Marriage, wife and husband are titles of dignity, belonging to those who made the choice to go the whole way for life in matrimonial bond.
>
> Couples who choose different relationships need to choose different titles, leaving the dignified titles to those who are qualified to use them.

That was one part of the bill where I am glad commonsense prevailed. The bill now retains 'spouse' so that he or she has the dignity of being a married man or woman rather than being called a domestic partner. I believe the government recognised that the public outcry was far too much to allow it to introduce that provision.

Statistics indicate that one in three marriages ends in divorce, and many people who support the bill will make that point. The National Party believes the sanctity of marriage is ultimate but that marriage is not always lifelong. We understand that one in three

marriages ends in divorce for all sorts of reasons: people fall out of love; there is domestic violence; and there are other reasons people cannot stay together. However, we do not know the statistics for de facto relationships that break down because there is no contract and no long-term commitment. Similarly, we do not know the statistics for same-sex relationships. Of course there are some long-term relationships. Earlier the Honourable Alexander Olexander talked about his long-term commitment. I know there are many long-term committed same-sex partnerships, but there are also many short-term partnerships. Many people live in relationships that are not as stable as relationships involving married couples.

Our communities have told us that this legislation is totally out of step with the broader community. Many of the churches in my electorate condemn this bill. The Family Council of Victoria also condemns it. It is interesting that we learn our values, our morals and our principles in our homes and in our churches. The Honourable Roger Hallam and a number of other honourable members have indicated how important values, morals and principles are to our children growing up in a decent society. In the daily newspapers we read about children who are left out in the cold. The parents of those children do not know where they are, despite being in normal married relationships. We must ensure that our children do not end up on the scrap heap. We have to ask ourselves what message is the proposed legislation sending to our young people. Is it that you don't have to believe in marriage?

It is saying that there are many alternatives, including de facto and same-sex relationships. It is saying that relationships between same-sex couples are becoming the norm, that they are on a par with marriages. These are the messages we are sending to our young people, some of whom are quite confused. I recognise that a number of people are confused about their sexuality and about many issues in their lives. There are numerous discussions out there about good parenting, about children living in stable relationships and about being brought up in a good marriage. I know there is a counterargument about children from heterosexual marriages where the couple are not good parents. There is no doubt that there are some heterosexual marriages where children would be better off in a more loving environment, whether it be with a single mother or a different family. Despite there being many dysfunctional families out there, the statistics are very bright about the futures of children who are brought up in a loving, stable heterosexual relationship with a mother and father and an extended family who love them. It is important that children have that opportunity in their lives, that they can be brought up in a family situation, with a mother and a father. That does not always happen, but we must do all that we can to provide that society where children can have the opportunity of being brought up with a mother and a father.

The Honourable Peter Katsambanis during his moving speech said that many people were not exposed to single-sex couples. I hope Mr Katsambanis was not referring to the National Party, because many of us know same-sex couples. I have worked with gay and lesbian people. When I was in the Shepparton Theatre Arts group I met many people who were in that sort of relationship. My husband Ian and I call a gay couple our very good friends. They have moved to Melbourne, but they were in Shepparton for a while, and we have had them to dinner and they have had us over for dinner. They were a lovely couple and we did not see any difference between them and ourselves when we were having dinner. So, it is not as if we have not been exposed, if you like, to same-sex relationships.

I attended a commitment ceremony in March this year at which a female couple committed themselves to a life-long relationship. It was a very moving ceremony, and they were lucky because they were surrounded by family and friends. The ceremony took place in the grounds of the parents' home and family and friends were there to wish them all the best. I hope they do have a long and happy life together.

As has been mentioned by the Honourable Roger Hallam, the responsibility in a unique or alternative relationship belongs to the people in that relationship. If a house or property is in both names, that would help to alleviate the problems encountered when a spouse leaves or dies. The remaining partner could then stay on in the home, which is really important. People in those unique relationships ought to realise their responsibility for long-term assets and make sure that they put assets or property in both names.

Hon. W. R. Baxter — It is up to them to make provision.

Hon. E. J. POWELL — Yes, they need to make provision for that long-term responsibility. They can also make a will if they are worried about assets going to partners. The person they leave behind may not necessarily be the next of kin, but they can be willed those assets in law, and anything else the person wants to leave them. The power of attorney is another legal avenue that same-sex couples could use when they want to have decisions made on monetary or health issues; they are able to do that by signing and handing over a power of attorney.

The definition of the term 'domestic partner' has caused some concern, not just in my community but right across Victoria. It is now being introduced into various acts to recognise the rights and liabilities of partners in domestic relationships, irrespective of the gender of the partners. I am delighted to see that commonsense prevailed and the word 'spouse' is retained for married couples, because people were very offended about that name change, which again tried to diminish the status of marriage.

The definition of domestic partner also applies to a situation where one or each provides personal or financial commitment and support of a domestic nature for the material benefit of the other, irrespective of their gender and whether or not they are living under the same roof. The part that says 'whether or not they are living under the same roof' will be very confusing in the case of a distribution of property or assets when a person is saying that they have been living in a committed sexual relationship. It will be open to all sorts of interpretations.

If a married person with children leaves the marriage relationship and lives as a domestic partner with someone of the same sex for two years or more, the new domestic partner would automatically be entitled to a certain amount of the partner's assets if the partner died intestate. The problem for the spouse would be to get the assets on behalf of the children. It would be very costly and would involve many court appearances. It would be traumatic and lengthy. I am pleased that the amendments, which we saw just before this debate started and which we have had very little time to read, will go some way towards ameliorating that situation, but they still do not alleviate the concerns of the National Party.

Amendment 2 refers to page 6 of schedule 1 and talks about the period for which a domestic partner has lived as a domestic partner of an intestate continuously before the death of the intestate. If it is less than four years, the spouse's entitlement to the partner's share is two-thirds and the domestic partner's entitlement to the partner's share is one-third. I am concerned about the period of less than four years. We need to know more than what — two months, three months? It was two years in the original bill.

The last point states that if the domestic partner has lived with the intestate for six years or more before the intestate's death, the spouse gets nothing and the domestic partner gets everything. The National Party has not had a good look at that amendment to enable it to ascertain whether it has been agreed to by the lobby groups or has been agreed by everybody to be fair and reasonable. We would have liked the opportunity to see the amendment before it came before the house.

I turn to proposed section 51A to be inserted in the Administration and Probate Act, which deals with the distribution between spouse and domestic partner. I talked earlier about the amendments. The second-reading speech talks about recognising relationships where people may not live under the same roof but are mutually committed to an intimate personal relationship and shared life as a couple. If that proposed section goes before a court of law I believe it will be very difficult to interpret, and I believe it will both hold up lots of couples in the courts and ensure that many solicitors make a great deal of money for a long time to come.

The National Party believes very much in the importance and promotion of marriage between a man and a woman, and for that reason it will not support the bill before the house.

Hon. B. N. ATKINSON (Koonung) — Like all honourable members I have received many submissions on the bill. Some of them have been reasoned and constructive; some of them have not been so reasoned or logical, or indeed compassionate in the approach some people have adopted to others. Certainly many people have been judgmental about different people in the community and about other people's choices on a range of issues.

I have considered the matter carefully and, in the context of having had the advantage of debates in the party room as well as having had a great deal of information put to me by community groups, I have been able to support the position of the Liberal Party on the bill. I will vote with the Liberal Party in supporting the bill. That position has obviously been made considerably easier by the amendments that have been initiated and negotiated by the Liberal Party. As the Honourable Carlo Furletti said, the amendments were crucial to the bill because, as is the case with many pieces of legislation coming from the government, it had been rather hastily drawn up and was ill considered, with all sorts of holes that would have created an enormous number of problems for the very people it is seeking to help and support.

Obviously certain members of the Labor government sought to make some political capital at different times about the legislation and about the Liberal Party's perceived position on it. However, the Liberal Party's position has been more than vindicated by the fact that the government has had to readdress substantial parts of the legislation and agree to a number of amendments to

satisfy both the Liberal Party and certain Independents in the other place. I believe it has also been necessary to satisfy broad community concerns about the bill.

Notwithstanding those amendments and the legislation now before the house, there are a great many people in the community who still oppose the bill and who find it very difficult to accept, particularly in the context of same-sex couples. Some people also find it difficult to accept, in the way the Honourable Jeanette Powell put to the house, that it is not seen to be supportive of marriage and family values.

The Honourable Jeanette Powell mentioned in her constructive and valuable contribution to the debate a number of instruments by which same-sex couples in particular could provide for the consequences of the death of a partner or the break-up of an intimate and caring relationship that has lasted a considerable period. In many ways those instruments are the very nub of this legislation, because they do not remove difficulties such as probate responsibilities that are historically more onerous for same-sex and de facto couples than they are for married couples, and they can even create other legal impediments or penalties.

That is what the bill is all about. This bill is not about morals; it is not about children; it is not about IVF treatments; and it is not about discrimination per se — beyond ensuring that people who have entered into and committed themselves to same-sex or de facto relationships can expect the same treatment under the law as people in normal heterosexual relationships.

However, I share some of the concerns held by people who have written to me about the implications of the legislation. Those concerns have been touched on by members of the National Party in particular. I am concerned that, notwithstanding the amendments that have been made to the bill, it may create a legal minefield. I am not sure that the legislation will result in the clear-cut treatment of a range of issues relating to same-sex couples and, to a lesser extent, de facto couples that is anticipated by its proponents — in other words, the Labor government. I am mindful in particular of a range of Family Court proceedings that can be destructive, debilitating and ultimately very sad for their participants. I am not sure that this bill will reduce the sort of impact those types of cases have on people in our community, in particular same-sex couples.

I do not want to cover the areas that other people have covered in this debate. It has been a good debate that has included a range of views that have resulted in a worthwhile discussion of a difficult and controversial issue. My concerns about the legislation relate more to de facto couples than to same-sex couples. I am particularly concerned, and have been for a long time, about the fact that one in four Australian children is born outside marriage. Those children are no longer the result of teenage pregnancies, which has been a popular anecdote in the past; they are usually children born in relationships that people have expected to endure but — as the statistics tell us is happening more frequently — have not endured. Sadly, the statistics go on to tell us that children of those broken relationships are overrepresented in virtually all the risk categories of young people, including teenage suicide, drug abuse, alcoholism, anorexia, child abuse and inappropriate sexual behaviour.

Although some same-sex couples want to have children, by and large most homosexual people are not terribly interested in establishing family units. Yes, some will try to bring children into their relationships and nurture them and show them the sort of care and love they believe they can provide as a basis for developing worthwhile young people who can go forward and live valuable lives. However, by and large most homosexual people are not particularly interested in bringing children into their relationships. That may be a generalisation, but it has certainly been the case with the people I have talked to.

However, de facto relationships are a very different kettle of fish, because so many of them involve children. That, to me, is a matter of far greater concern when considering the areas in which people in relationships need support and protection, and in particular when considering the legal implications of those relationships. I suggest that in addressing that issue in this country we start by looking at a relationship contract as an alternative to a marriage certificate. I am not suggesting we should stop having marriages or stop issuing marriage certificates, because in my view the good of the community is best served — and there is reasonable social evidence to support it — by established marriages where people have demonstrated a commitment to each other, albeit, as some would argue, only on a piece of paper. The commitments of a marriage generally provide stronger and more enduring relationships and therefore are of greater benefit to young people.

One cannot talk in absolutes. We are all familiar with marriages among our friends which we have assumed were strong relationships that would endure but which have broken down and ended in divorce, so we are aware that there are no absolutes. However, by and large we need to encourage people to enter into marriage and to support those who make that

commitment one to another, because there is a benefit to the community in that commitment.

We should also be saying to people who are currently in de facto and same-sex relationships, 'Okay, you want the privileges, the rights and the legal opportunities available to people who have made a marriage commitment, therefore you also need to provide some sort of certainty to the community about the nature of your relationship'. Some might see that as being draconian; however, I understand that some states in the United States of America are looking at the proposition of having a relationship contract.

The concept of a relationship contract certainly addresses the point made by the Honourable Jeanette Powell about how to establish exactly whether a relationship does or does not exist. I agree that that area is likely to be a real legal minefield and subject to challenges from former spouses and so forth. No matter how we try to define such a contract, it will be a very difficult area and an area that will be filled with bitterness and acrimony between former partners in relationships that have broken down.

Turning again to de facto relationships, it is even more important that before people start living together, before they start sharing a bed, before they start sharing their lives in an intimate way and — by default, according to the legislation in place in this country today — before they start sharing contractual obligations, they ought to understand the implications of those things.

One of the real advantages of marriage is that there is a proposal, an acceptance and a process. Quite apart from the religious process, there is a process — obviously not all marriages are conducted in a religious environment either — where people measure the contractual agreement they are making and are aware of the legal implications of the marriage. They are aware of the implications for their assets, their responsibilities if children are born into that marriage, and so on.

I am concerned about a lot of people who enter de facto relationships without any real understanding of the implications or understanding of the legal ramifications. Somehow I think we owe a duty of care to those people to enable them to go through some sort of process to start to consider those sorts of issues. One could suggest that there is some Big Brother in this. One could suggest, as I said, that it is draconian, but on the other hand I argue that it forces people to think about what they are doing, the sort of commitments they are making and the implications of those commitments. I am particularly concerned about separated young women or divorced mothers entering into relationships because of isolation, loneliness or difficulties rearing young children on their own without really understanding the legal risk of bringing somebody else into that household and living with that person over a number of years. They may not realise that down the track they could very well be looking at having to divide their assets or face other legal implications.

Those people ought to understand that process. Perhaps they should understand the concept of a relationship contract — not a Big Brother one — or simply some process to start them thinking about it. Maybe in weighing up that process, they might start to make better informed decisions about the relationships they strike and what is in their best interests and the best interests of their partners and children. In that way one hopes we might have a better society that understands the responsibilities people have to one another and particularly to children.

It is a fairly radical suggestion, no doubt, and it is perhaps off the mark a little or at a tangent to some of this legislation. Nevertheless it is the sort of thing we ought to be looking at when trying to arrive at a better community where people in relationships take more responsibility for themselves and those who are involved in those relationships.

Hon. ANDREA COOTE (Monash) — I have great pleasure in speaking on the Statute Law Amendment (Relationships) Bill. I am glad to see so many supporters in the gallery as well. This debate is not about morality. A similar debate was held in the 1980s under a Liberal Premier, the Honourable Rupert Hamer. This bill is about equity. It is about being fair and it is about recognising relationships that are perhaps non-mainstream relationships, but relationships of all sorts — de facto, heterosexual, same sex, and I think we should record at this time the intersex relationships as well.

As I said, Premier Hamer had a similar debate in 1980, and indeed our venerable President spoke on the Crime (Sexual Offences) Bill in this chamber. When I was doing my research I found that both the President, the Honourable Bruce Chamberlain, and the Honourable Bill Baxter spoke at length during that debate. I remind the chamber about some of the issues before the house at that time because it really has not changed 20 years on. I shall read from an *Age* editorial of 8 September 1980 which states:

> The first thing that we must say about the state government's proposed reforms of the sexual offences laws is that they are long overdue. Sexual relations in Victoria in 1980 are still subject to substantially the same laws as they were in 1880.

We are 20 years on from that legislation and I have been disappointed to an extent to hear some of the debate that has gone on in this chamber and some of the moralistic approaches that I hoped might have been left behind. Indeed, like everybody else in this chamber, I have received an enormous number of emails, faxes, telephone calls and letters. I have to say I have been disappointed to receive a lot of vitriolic and quite disturbing comments. I will read some of them. I am not reading these letters into the record because I believe in them; I do so because in 20 years time when someone reflects on this debate, they will be able to see some of the horrendous suggestions that were made by segments in our community. I will not identify the authors, but I say at the outset that I was concerned about these views. One reader states:

> Homosexual and lesbian couples want adoption rights, equal to the rights of married or de facto couples, because they are unable naturally to produce children. They have chosen an unproductive, in fact, self-destructive lifestyle and the best way to recruit to that lifestyle is by adopting children and bringing them up to believe the situation they are in is normal.
>
> Marriage and family are the cornerstones of a stable society and this bill threatens the very fabric of our society by granting special rights to a very small minority.

I shall refer to another letter, which was proudly signed by a person as a prominent member of the Catholic Church. Once again, I distance myself from this letter, but I shall read it into the record because it is important to see just how disturbing some of this can be. She says:

> Homosexuality is intrinsically evil. It destroys the souls of those partaking of this behaviour.

Personally, I think that is unacceptable. She goes on:

> Homosexuality was legalised, then prostitution, the next step is allowing homosexual marriage, then they will want to lower the age of consent, then male brothels, the legislation of marijuana so that they can fill their brothels and then the very worst scenario for dole recipients and widows, the present work-for-the-dole scheme will force young people and widows and unmarried mothers into the sex slave industry because it is legal work.

This letter goes on for four pages in a similar vein. Quite frankly, I am very pleased to hear the laughter in the chamber and from the public gallery, because I, too, think it is unbelievable. When the bill legalising homosexuality was debated in the 1980s, some of its greatest opponents were religious groups. They felt there was a threat to religious groups. All honourable members have been subject to a lot of lobbying from religious groups. Most of those groups put their points of view rationally and objectively. However, there are some aspects I was not happy with with regard to some of the more extreme comments.

I shall quote another letter that was sent to me. Although once again I distance myself from the letter, it is important to understand some of the biased and bigoted comments out in the community. It states:

> The act of homosexual sex is physically unnatural; it causes severe health problems that have great financial risks for our society.
>
> Accepting any amendment to the proposed bill will simply be another step in the wrong direction and more demands will follow. Accepting any part of this legislation will be a disaster for marriage and the family.

Having said that, I point out that I also received a lot of very positive and touching mail. One of those was from a young person. I think it epitomises the direction in which the community is moving, and I hope to see in the future more of this sort of attitude. This young person states:

> Although I am not gay myself, I have a close friend of six years who is. We have been through much together, including the ups and downs of dating in the 90s. We both have similar aims in our pursuit of romantic relationships — that is, to find a partner, fall in love, buy a house and settle down. However, it angers and saddens me to know that, despite my heterosexual relationship and her same-sex relationship involving the same level of love, commitment and nurturance, that she and her partner are treated differently by the law to my partner and I.

That is what this bill addresses. We have lived with that inequity for far too long and it is pleasing to see that we are now finally facing up to and fixing this anomaly.

One of the concerns when this issue was debated in the 1980s was that by legalising homosexuality there would be a huge rush of same-sex relationships. It is also a threat that has come through in the latest debate.

I refer to a document issued by the Australian Institute of Criminology on homosexual law reform in Australia, particularly that part which refers to what took place in 1976 in America. It states:

> The research findings do not, however, support this fear —

that is, that there will be a huge increase —

> In 1976 Geis, Wright, Garret and Wilson surveyed a number of homosexuals, district attorneys and police officials in the seven states which had decriminalised homosexual acts. Those surveyed noted that there had been no changes in the involvement of homosexuals with minors —

or with homosexuals at all. It is very hard to get numbers. I think the last census was the first time Australians had the opportunity to say what type of relationship they lived in and if they lived in same-sex relationships. It is very difficult to get concrete figures.

I have spoken with representatives of the ALSO Foundation, the Victorian Gay and Lesbian Rights Lobby, the national crime statistics, the family and community statistics unit, the monthly and multipurpose population surveys and the family statistics unit. None of those were able to prove to me in any way and with any empirical evidence that there has been a huge or unacceptable increase in numbers over the past 20 years. So that is one myth that should be debunked.

This bill has had a rather tortured birth, as many honourable members have mentioned during the debate. It was ill conceived because of bad drafting initially. I am saddened that many people were put to a lot of unnecessary concern and worry over this bill. I think it was because of a mistake on behalf of the government, and I am pleased to see that these anomalies have been fixed. But I am perplexed at the confusion that resulted from the initial bad drafting. I remind the house that the initial bill discriminated not only against same-sex couples but also against couples in long-term relationships. That has been well covered in this debate.

I, too, would like to praise my colleague the Honourable Peter Katsambanis for his excellent work in helping to get the bill to this stage. He did a sensational job. I sincerely commend him for the amount of work he put in. Well done!

The electorate of Monash Province that I share with the Honourable Peter Katsambanis probably has the largest gay and lesbian community in Victoria. We feel very proud, together with the honourable member for Prahran in the other place, Leonie Bourke, to represent and work closely with this community group. Like many of my colleagues have said, I do not retract from being involved in the advertisement in the guide to the Midsumma Festival. I was very proud to fight for gay and lesbian rights, as I will fight for all members of my community. I suggested to my colleague Andrew Olexander that we should have a Midsumma dinner for all the people involved in the guide. Although I have not discussed this with them, I believe my 19 colleagues who were also in the advertisement were very pleased to be in the guide.

I regret that as a community we did not have enough opportunity to talk about what the concerns were for the gay community in Monash Province so that its members could understand our position, how the legalities operate, and how the legislation moves forward. Peter Katsambanis and Leonie Bourke have done a sensational job in helping the community to understand our perspective and how difficult it is being in Parliament. As a consequence, on a bimonthly basis Peter Katsambanis, Leonie Bourke and I will meet with many members of our gay community and work through a number of issues before they reach the legislative stage, so they can understand our point of view and we can listen to their issues of concern and, I hope, build a close relationship that works for all of us.

I thank the gay and lesbian communities for the enormous amount of assistance they have given me in coming to understand more of the intricacies of this bill, and I look forward to working with them more closely in Monash Province. Many people have spoken about the Liberal Party's point of view on this bill. I refer to a letter from the Leader of the Opposition to one of my constituents. He puts it very well for the Liberal Party when he states:

> The Liberal Party is a proud supporter of the family and committed to the special needs of children. The party is also committed to the protection of the rights of individuals in our society, believing there is no place for unfair discrimination based on gender, race, religion or sexuality.

We have heard much in this debate about families. I am a great supporter of families and feel that a lot of pressure is put on families today. A lot of the correspondence I have received talks about threats to families. The people who are so concerned about families should really look at how they can strengthen families, not look at other relationships that are happy, supportive and mutually respectful. The Prime Minister, Mr Howard, has gone a long way towards putting in place structures to help and support families. I call on church and community groups to strengthen families as well.

Into the future we need to work with all community groups — the church groups, the schools, the gay and lesbian community, and even the Saltshakers — to decide what sort of Victoria we have now and how we can all live in harmony together in the future.

Relationships are not the domain of just the traditional family. I received a touching letter from a man living in suburban Melbourne, and I think many a traditional family member would be very envious of the relationship I am about to relate. He states:

> Since 1948 I have lived in a permanent and loving relationship with my partner in Melbourne. This has probably been obvious to neighbours and friends who recognised a non-standard situation, but nevertheless has been acceptable to them as it has been to us. We are both good citizens, with above-average, quality home, professional positions, and membership of community and other social organisations.
>
> Our 'family' differs from that of most neighbours and friends only in the absence of children in our relationship. Yet we are

> aware that many other couples are childless by choice, though they are still regarded as a 'family'. The 'family values' which have been mentioned in the present debate would have to include such qualities as respect (indeed love) within the partnership, loyalty, stability, mutual support (in sickness and in health), and making a positive contribution to society.
>
> We are proud enough to believe that such values mark our relationship. We have both completed our careers with public recognition of our contribution.

I think many of us would be very pleased to share a relationship as deep and as respectful as that. I would like to pay particular tribute to the Honourable Andrew Olexander, whom I believe has raised the level of debate on this issue and given it great dignity. I hope as we go back out into the community we take that dignity with us as we speak about this bill.

Hon. C. A. STRONG (Higinbotham) — In my contribution to the debate on the Statute Law Amendment (Relationships) Bill I will cover several issues. I will commence by saying essentially what this bill is about.

As I read and understand it, the bill is about establishing equality of rights and obligations between what might be called traditional marriages and relationships and same-sex marriages and relationships. They range over a whole series of areas, and these are spelt out in the legislation — including property-related benefits, compensation benefits, superannuation benefits, health-related legislation, criminal law, consumer and business law, and general legislation.

In the debate that led to the introduction of the legislation and the debate tonight in this place, a lot has been said about relationships and the relative strengths and benefits of those relationships, whether they be traditional or of the same sex. They are extremely valid questions for our society and community and, like many others, I have significant misgivings about where some of these new trends may lead. However, I do not believe they are relevant to the bill, because it deals with equality of rights and obligations. I have no doubt, as has been said by other speakers, that the bill changes the status of the traditional marriage. I do not believe, as others have said, that it necessarily devalues the status of traditional marriages, but it is beyond argument that it does change it.

Given the lateness of the hour and the need to be brief, I now turn to how the bill changes the status of marriage and to some of the lessons and consequences that we, as law-makers, should take heed of and consider. The bill covers probate, duties, first home ownership grants, land taxes and so on and over many years legislators have deliberately set in place legislation that positively discriminated in favour of traditional marriage. Legislators, people like us, deliberately set in place discrimination in favour of traditional married couples, giving them real financial benefits in stamp duties, land taxes, transfer of land and property, the ability to claim compensation and so on. Over time relationships have changed from the traditional married relationship so the relationship pool is much bigger. The positive discrimination in favour of married couples is now read as negative discrimination against legitimate couples who are not in traditional married relationships.

By trying to do good 20 or 30 years ago by discriminating in favour of married couples, as history and the world has changed, those legislative acts are interpreted as discrimination against new relationships and the new definition of domestic partners. This is a salutary lesson for us as legislators. We have to be careful how, when and in what way we discriminate in legislation. We may think we are doing something very good in positively discriminating in favour of some group or constituency that may be appropriate and popular at the time we do it, but in doing so, we are discriminating against another group.

The bill removes discrimination against new relationships, and I do not have any problem with that. It is appropriate to extend the equality of rights and obligations. However, I make the point that there is a risk whenever we discriminate in favour of one section of the community because as things come around it will get us next time and will be seen as discrimination against somebody else. That is occurring in other areas, especially in the federal sphere with positive discrimination in favour of the indigenous population. Some people interpret that as discrimination against those who are not part of the indigenous population. We need to be careful about how we use the law to discriminate. Regardless of whether that discrimination is in favour of or against somebody, it needs to be handled carefully.

It is an important lesson for us, because the bill takes away the positive discrimination put in place some years ago in favour of married couples and extends it to all couples. It is now seen as discrimination against a group whereas originally it was not seen that way. With those few words of caution I conclude my contribution.

House divided on motion:

Ayes, 35

Atkinson, Mr	Lucas, Mr
Boardman, Mr	Luckins, Mrs
Bowden, Mr	McQuilten, Mr
Brideson, Mr	Madden, Mr
Broad, Ms	Mikakos, Ms

Carbines, Mrs	Nguyen, Mr
Coote, Mrs	Olexander, Mr
Cover, Mr	Rich-Phillips, Mr
Craige, Mr	Romanes, Ms
Darveniza, Ms	Ross, Dr
Davis, Mr D. McL.	Smith, Mr K. M.
Davis, Mr P. R.	Smith, Mr R. F.(*Teller*)
Forwood, Mr	Smith, Ms
Furletti, Mr	Stoney, Mr (*Teller*)
Gould, Ms	Strong, Mr
Hadden, Ms	Theophanous, Mr
Jennings, Mr	Thomson, Ms
Katsambanis, Mr	

Noes, 5

Baxter, Mr (*Teller*)	Hallam, Mr (*Teller*)
Bishop, Mr	Powell, Mrs
Hall, Mr	

Pair

Birrell, Mr	Best, Mr

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

Hon. M. R. THOMSON (Minister for Small Business) — I move:

1. Clause 1, page 2, after line 2 insert —

"( ) It is a further object of this Act to prevent discrimination under legislation specified in the Schedules by ensuring that all couples irrespective of gender have the same rights and obligations while at the same time recognising the importance of a commitment to a long term relationship and the security of children.".

The amendment ensures that all couples, irrespective of gender, have the same rights and obligations while recognising the importance of a commitment to a long-term relationship and the security of children.

Hon. P. A. KATSAMBANIS (Monash) — This amendment, and the amendment moved in the other place after discussion with the opposition, go a long way to addressing the legitimate concerns of the community and the opposition as put to the government. This amendment inserts a clause into the objects of the act to ensure that all couples, irrespective of gender, have the same rights and obligations.

However, it also indicates the commitment of Parliament to ensuring that long-term relationships are recognised and that the security of children in relationships of all varieties is paramount. I place on the record that it was only through the cooperation obtained in this chamber and the long-term operation of this place as distinct from the other chamber that enabled us to defer debate on the bill for long enough to ensure that all the issues were explored, discussed and debated and that we arrived at amendments that would satisfy the legitimate concerns of the people in our community. It was through the cooperation of the government and the opposition in this place that we have managed to arrive at this position. The opposition supports the amendment.

Hon. P. R. HALL (Gippsland) — I wish to comment on the amendment. One of the difficulties members of the National Party have faced in considering the amendments is that we were not privy to the negotiations between the opposition and the government about the drafting of the amendments. We did not see them until 2.00 p.m. today. We were expecting that during the committee stage some explanation of the amendments would be given, but all the committee has heard from the minister with this amendment is a recitation of the words of the amendment.

I would have thought that as courtesy to the committee, and in particular to the National Party, we are entitled to an explanation of exactly what the amendment does and why it was deemed necessary that the amendment should be moved. I ask the minister to explain.

Hon. M. R. THOMSON (Minister for Small Business) — The amendment recognises the relationships that exist in our society and gives effect to the intention that they should be recognised under the law as having rights and obligations. That is what the amendment does.

Hon. P. R. Hall — In what way does it do that?

Hon. P. A. KATSAMBANIS (Monash) — The amendment inserts a further object into the objects clause of the bill; it clarifies the objects of the bill. It makes clear what the legislative intent is. The words in the short amendment are self-explanatory and describe what the bill does. It prevents discrimination in legislation by ensuring that couples, irrespective of gender, have the same rights and obligations in the acts specified in the schedule while at the same time it recognises that we are dealing with long-term relationships.

The whole notion of the relationships we are dealing with here is that they are long term, not fly-by-nighters or one-night stands. It affirms the objects clause and

makes it clear to everybody that the considerations we have taken into account when passing the legislation concern the security of children. It is an expansion of the objects clause and has no particular science. It is self-explanatory.

Hon. J. M. McQUILTEN (Ballarat) — I am of the view that the amendment has been canvassed widely and long within the halls of Parliament. Most honourable members have been aware of the deliberations between the government and the Liberal Party, and I am sure the National Party, because those parties were in coalition until recently. They would have known about the deliberations. The intent of the bill is clear. I cannot see why the National Party is being so obstructionist at this stage.

Hon. W. R. BAXTER (North Eastern) — I object to what Mr McQuilten has said. My understanding until recently was that the Council would debate the second reading of the bill, proceed to the committee stage and then report progress and debate the HIH Insurance bill while consideration was being given to the amendments. Unlike Mr McQuilten, I had not seen the amendments until shortly before the division was called on the second-reading motion. My leader saw them at 2.00 p.m. For Mr McQuilten to say the amendments have been floating around the place and that the National Party acquiesces to them is plainly wrong.

I invite Mr Katsambanis to explain to the committee what amendment 1 means, because it seems the minister is unable to do so. I particularly want to know what the last words of the amendment mean:

> … while at the same time recognising the importance of a commitment to a long term relationship and the security of children.

I listened to the second-reading debate and towards its end I was tempted to make a contribution because I was disturbed by some of the things I heard; but I resisted. However, I will not accept the amendment without a better explanation from the minister.

Hon. G. W. JENNINGS (Melbourne) — I remind members of the National Party of much of my contribution earlier in the debate.

Hon. W. R. Baxter — That I listened to.

Hon. G. W. JENNINGS — I reiterate the point I made during my contribution. I encapsulated the view of the government that the intent of the legislation is to provide for regard and respect for same-sex couples who live in long-term relationships. It aims to redress the discrimination they have suffered and have had to endure. The intent of the government is to deliver those outcomes, not at the expense of long-term traditional relationships that are near and dear to the heart of the National Party, but to pay due regard to the appropriate level of support and nurturing traditional families may have received along the lines expressed in the National Party's own contribution to the debate today.

The reforms made by the bill do not come at the expense of the rights, obligations and opportunities of those who live within the traditional family structure. That is the nature and intent of the additional objects clause. It is consistent with the argument I put at length during my contribution to the second-reading debate.

Hon. J. M. McQUILTEN (Ballarat) — I am amazed at the response from the National Party. Its members are not babes in the woods — I am; I have been here only 20 months. There has been discussion about the bill for a long time. You must have been aware of the negotiations.

The CHAIRMAN — Order! Through the Chair.

Hon. J. M. McQUILTEN — They must have understood what was happening. I believe that to claim a lack of knowledge of the negotiations is not — —

Hon. R. M. Hallam — As a matter of courtesy more than anything else.

Hon. J. M. McQUILTEN — I believe the claim that members did not know is not correct.

Hon. P. A. KATSAMBANIS (Monash) — I am happy to provide a further explanation to Mr Baxter, to put the new objects clause into some context and ensure that he is fully briefed on its origins.

Legitimate concerns were raised when the initial bill was introduced into the other place. One of the concerns was that one of the definitions of a domestic partner was so widely drafted that if either person entering into a new domestic relationship had a child that the new partner was unaware of, the existence of that child could trigger a new relationship, and upon dissolution of the relationship and a distribution of the assets that child, who would be living with a third person, might be disadvantaged.

We changed that. We ensured that the government was made aware of the fact that the definition was far too broad, and it was changed to ensure that only children of the new domestic partnership would create new rights and obligations and that the existence of a child outside of that relationship who belonged to one of the partners would not immediately trigger the rights and

responsibilities in the act. It is quite clear that that was a change; it added to the bill, strengthened it and protected the rights of children and in most cases, their mothers, who were outside the new relationship.

The long-term relationship aspect goes to amendment 2. It has been made clear that it has to be an extremely long-term relationship to defeat the interests of a legally married spouse, so the object clause inserted by amendment 1 reflects partly an amendment made to the bill in the other place and partly the second amendment that is being contemplated tonight.

Hon. P. R. HALL (Gippsland) — First of all, I want to thank the Honourable Peter Katsambanis for attempting to explain the amendment to us. His explanation is far more than we have had from the government. In response to the comment from the Honourable John McQuilten, I want to say that despite the fact that we operate as three parties in Parliament — that is, the Labor Party, the Liberal Party and the National Party — we understood — —

Hon. J. M. McQuilten — That's new.

Hon. P. R. HALL — It has been in place for the best part of 12 months now, almost 12 months. We were certainly aware that the government and the Liberal Party were negotiating on amendments, but the government has come in here tonight and invited us to agree to this amendment and even discuss it without having had the common courtesy of providing a decent explanation of what the amendment is all about.

Hon. J. M. McQuilten interjected.

Hon. P. R. HALL — Yes, 2 o'clock this afternoon was the first time I was able to look at it, and that was in confidence. This is the first formal look we have had at the amendment. I therefore make the point at the committee stage that we do not expect to be treated with the disdain with which we have been treated over this. We expect that we should have come to the committee and received an adequate explanation of the amendment.

As I said, despite the best efforts of the Honourable Peter Katsambanis to provide that explanation, we have not had it from the government. Had we been given some reasonable time to debate the amendment we could have spoken more generally about it and discussed the issues associated with it. I have to say on behalf of the National Party that we still do not fully understand the reason for the amendment. Given that we have no further time to discuss it or go through it, we will not be supporting the amendment.

Hon. M. R. THOMSON (Minister for Small Business) — First of all, can I say that I regret the fact that the National Party was not consulted about the matter. That should have occurred. I reiterate that the amendment recognises long-term relationships without devaluing traditional relationships — marriage and family. It states that other relationships exist in society, and this amendment recognises the rights of those relationships and the obligations within them.

Amendment agreed to; amended clause agreed to.

Clause 2

Hon. M. R. THOMSON (Minister for Small Business) — The Statute Law Amendment (Relationships) Bill recognises the relationships that exist within society. All it does is recognise that with those relationships come rights and obligations that all people should be entitled to. It does not degrade relationships that existed before and traditional relationships that will continue to exist. It does not in any way take away from the traditional family. It does not take away the rights of children. What it does is reiterate that relationships exist in society that are not those of the traditional family and there is a need to recognise the longevity of those relationships and to give value to their rights and obligations, which is what this bill does.

Clause agreed to; clauses 3 to 9 agreed to.

Schedule 1

Hon. M. R. THOMSON (Minister for Small Business) — I move:

2. Schedule 1, page 6, lines 15 to 30, omit all words and expressions on these lines and insert —

'(1) If an intestate leaves both a spouse and a domestic partner, the entitlement to the partner's share of the intestate's residuary estate is to be determined in accordance with the following table.

TABLE

Period that domestic partner has lived as domestic partner of intestate continuously before intestate's death	*Spouse's entitlement to partner's share*	*Domestic partner's entitlement to partner's share*
less than 4 years	two-thirds	one-third
4 years or more but less than 5 years	half	half
5 years or more but less than 6 years	one-third	two-thirds
6 years or more	none	all

Note: There is a minimum requirement that the domestic partner lived with the intestate continuously for at least 2 years immediately before the intestate's death, unless the domestic partner is the parent of a child of the intestate who was under 18 at the time of the intestate's death — see definition of "domestic partner" in section 2(1).'.

The amendment establishes the distribution scheme that would be in place for intestate property and sets the time for which couples will have had a domestic partner relationship. It inserts the scheme into the schedule for the sake of clarity in the legislation.

Hon. P. R. HALL (Gippsland) — I ask the minister why it was deemed necessary to have this amendment.

Hon. M. R. THOMSON (Minister for Small Business) — Following the discussions that were held it was felt to be important that there was an understanding of the longevity of relationships and the changes that would occur in the division of property in the case of intestacy where one partner has died without a will and where there are complications in that there is a spouse and there has not been a divorce or a termination of that relationship. The amendment clarifies the entitlements and the length of time that partners would have to be in a relationship for those rights to apply.

Hon. R. H. BOWDEN (South Eastern) — I would appreciate a point of clarification from the minister. On the left-hand side of the table is the classification 'Period that domestic partner has lived as domestic partner of intestate continuously before intestate's death', under which appears 'less than 4 years'. Will the minister please clarify for me the point of a minimum period of less than four years? Does it mean one day, two weeks or whatever? What is meant by 'less than 4 years' in this amendment?

Hon. M. R. THOMSON (Minister for Small Business) — The minimum is two years.

Hon. P. R. HALL (Gippsland) — I thank the minister for that explanation. Once again, because members of the National Party were not part of the negotiations we have not had adequate time as a party to consider the amendment and will be voting against it.

Amendment agreed to; amended schedule agreed to; schedules 2 to 7 agreed to.

Reported to house with amendments.

Report adopted.

Third reading

Hon. M. R. THOMSON (Minister for Small Business) — I move:

That this bill be now read a third time.

I thank the Attorney-General for the diligence with which he has pursued this piece of legislation, and I thank Richard Wynne, the honourable member for Richmond in the other place, and Peter Katsambanis, who have worked through difficulties to ensure that the bill is passed tonight.

I also put on the record the Attorney-General's gratitude to Anna Chapman, Danny Sandor, Mike Kennedy, Michael Gorton, Marcus Patterson, Kris Walker, Miranda Stewart, Chris Gill, Rosemaree McGuinness, Janet Jukes, Kayleen White, Dr Ruth McNair, Diane Sisely, John Daye, Nan McGregor, Jamie Gardiner, Ruvani Wicks and Penny Dedes. I thank the Honourables Carlo Furletti, Gavin Jennings, Roger Hallam, Andrew Olexander, Elaine Carbines, Maree Luckins, Kaye Darveniza, Peter Hall, Peter Katsambanis, John McQuilten, Bruce Atkinson, Jeanette Powell, Andrea Coote and Chris Strong for their contributions.

House divided on motion:

Ayes, 35

Atkinson, Mr	Lucas, Mr
Boardman, Mr	Luckins, Mrs
Bowden, Mr	McQuilten, Mr
Brideson, Mr	Madden, Mr
Broad, Ms	Mikakos, Ms
Carbines, Mrs (*Teller*)	Nguyen, Mr
Coote, Mrs	Olexander, Mr (*Teller*)
Cover, Mr	Rich-Phillips, Mr
Craige, Mr	Romanes, Ms
Darveniza, Ms	Ross, Dr
Davis, Mr D. McL.	Smith, Mr K. M.
Davis, Mr P. R.	Smith, Mr R. F.
Forwood, Mr	Smith, Ms
Furletti, Mr	Stoney, Mr
Gould, Ms	Strong, Mr
Hadden, Ms	Theophanous, Mr
Jennings, Mr	Thomson, Ms
Katsambanis, Mr	

Noes, 5

Baxter, Mr (*Teller*)	Hallam, Mr (*Teller*)
Bishop, Mr	Powell, Mrs
Hall, Mr	

Pair

Birrell, Mr	Best, Mr

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

HOUSE CONTRACTS GUARANTEE (HIH) BILL

Second reading

Debate resumed from earlier this day; motion of Hon. M. R. THOMSON (Minister for Consumer Affairs).

Hon. D. McL. DAVIS (East Yarra) — It is with pleasure that I rise to make a contribution to debate on the Housing Contracts Guarantee (HIH) Bill. The opposition does not oppose this bill, and has indeed been prepared to expedite it.

Honourable members will be aware of the difficulties caused by the collapse of HIH Insurance, which is arguably the largest corporate collapse in Australia's history, with the potential to cost around $4 billion to businesses and consumers across the Australian economy. The collapse of HIH has had a significant impact that is resonating widely throughout Australia, not only in the business community where there has been a great deal of public discussion, but more widely in the community. Consumers have been disadvantaged and have found themselves in all sorts of difficulties, and businesses outside the building industry have also suffered. I will give the chamber some examples of businesses not involved with building that have suffered, including some in my own electorate. The broad impact of the HIH collapse is concerning.

As I said, opposition members do not oppose the bill and have gone to some effort to expedite its passage through Parliament. We have done that because we understand the impact this collapse has had on the Australian community. I place on the record at the outset our thanks to the Minister for Finance in the other place for last week providing a briefing to the opposition. It is important in situations like this that there are full briefings before bills are brought to the house. A full briefing on the bill was provided to the opposition, and a great deal of information was put before us. In that context we were prepared to expedite the bill.

I also note that the HIH collapse has had an impact on the community that has led to a complex interplay between the federal and state levels of government. The primary responsibility for regulation of financial institutions is undertaken by the Australian Prudential Regulation Authority at the federal level. I compliment the approach taken by the Honourable Joe Hockey, the federal finance minister, and the Prime Minister in providing a framework to deal with legislation at a federal level as well as across state levels. However, it is important to note that while the primary regulation of financial institutions, including insurance companies like HIH, is undertaken at the federal level and is the responsibility of the commonwealth government, many of the impacts of the HIH collapse will be felt across the states in a different way.

The impact of the collapse on the building industry is of paramount concern, but, as I said, its impact goes well beyond the building industry. It is interesting to contrast the statements made initially by the Bracks government with the statements being made now that it has at least begun to deal with the issue. I welcome the steps that have been taken to provide some positive relief for those affected, although they have been a while coming.

The Premier and the Minister for Finance in the other place and even the Minister for Consumer Affairs in this place were at first not willing to concede that the state government had a role in providing part of the solution to the problems caused by the HIH collapse. It is important to place on the record that in the initial stages the state government was unprepared to deal with the issue. It was initially very reluctant to play its role in the best integrated solution the community could find.

I will start with an example from my electorate of a young builder who approached my office. He was also prominent in *Progress Press* pointing out that the impact on his business was considerable. This example reflects the human aspect of the insurance collapse and what it means for the broader community. The young man's name is Ben Richards, and he is quoted in an article on page 7 of the *Progress Press* of 14 May. He is a third generation Camberwell builder working for a family building company. The article states:

> Builders cannot obtain building permits without relevant insurance.
>
> Mr Richards said he had a $100 000 energy-efficient housing extension project ready to start, but was hogtied by a lack of insurance after his HIH policy collapsed.
>
> 'I've spent hours preparing for this job, but now I'm off work for at least the next month, and it could drag on longer', he said. 'And there's thousands of others like me in the same boat.'
>
> Mr Richards said the insurance agency Housing Industry Association … was accepting applications for insurance but the demand had caused backlogs.
>
> 'HIA can give a cover note for insurance within 48 hours … But that's not enough to gain a building permit.'

That is just one small example of a situation that has been replicated across the state and possibly across the country, although I do not speak for the rest of the country.

> 'And we have to wait weeks for full coverage. In the meantime we're out of work and building businesses will go bust.'
>
> Mr Richards said many businesses were starting to feel the pinch. 'When the collapse first happened people were finishing off jobs they already had permits for', he said.
>
> 'So it's only recently that builders are realising the danger.'

That is a clear example of the impact that has been felt by the average builder and by the building industry around the country.

In short, the bill, which the opposition does not oppose, amends the Housing Contracts Guarantee Act 1987, the Building Act 1993, the Domestic Building Contracts Act 1995 and the Sale of Land Act 1962 so that home owners and builders can be relieved of some of the suffering caused by the collapse of HIH Insurance.

The act will commence on 30 June. The final completion date, as outlined in the briefing and as detailed in clause 2, will be 30 June 2010. I understand the final date of operation will be variable to the extent that if the issues that surround HIH and the run-on are able to be dealt with more swiftly, the government intends to close it off at an earlier point.

Clause 3 adds the establishment of the indemnity scheme to the act. Clause 4 clarifies that the scheme applies to domestic building work and contracts done on or after 1 May 1996. Clause 5 modifies the memorandum of association of the Housing Guarantee Fund Ltd to enable it to carry out the functions of this bill. The house will remember that until the middle 1990s the Housing Guarantee Fund provided building insurance of this type. It provided an arrangement whereby a single insurer was able to provide that service for the community and ensure that people who had houses built by licensed builders were able to have proper and adequate insurance. The system that applied after that point involved private insurers and licensed insurers. A number of them were able to provide those services.

Clause 6 delays the winding up of the Housing Guarantee Fund Ltd until the provisions of the scheme are completed and identifies the separate nature of funds set up under this bill. Clause 7 makes further changes to the House Contracts Guarantee Act 1987. Clause 8 inserts a section defining the application and function of the scheme within the House Contracts Guarantee Act.

Noting the hour, I shall move swiftly through these points. Clause 9 defines the requirements for warranty insurance evidence for owner-builders that were covered by HIH when selling. Clause 10 provides for conditions by which automatic suspension of builders by the Building Practitioners Board can be deferred.

Clause 11 empowers the Housing Guarantee Fund Ltd to recommend taking action against builders. It is important to understand the mechanism that operates. A builder builds a property and the insurance relationship that flows from the proper insurance being obtained is that the purchaser has insurance running over the period which enables them to claim directly to the insurance company. To this extent, the Housing Guarantee Fund Ltd will step into that place, and the burden of that insurance will be undertaken by it for contracts signed through this period as well as ones that are in operation, picking up HIH insurance policies that were in operation and have since lapsed.

Clause 12 sets out the details of the domestic building HIH indemnity account. Clause 13 provides for an additional building permit levy. The funding of this is provided partly through the state and partly through the levy on future contracts. Clause 14 provides for the repeal of the additional building permit levy. Clause 15 provides that additional levies due under clause 13 are still collectable after the repeal of the additional levy.

As I said, there are also amendments to the Domestic Building Contracts Act 1995. Clause 16 provides for the handling of disputes in claims against HIH and the role of the Victorian Civil and Administrative Tribunal and the courts. Clause 17 amends the Sale of Land Act 1962 and allows details of HIH policies to be provided to meet other requirements of the act.

It is important to make some further comments about the extent of this. It goes some way to moving the logjam that has occurred in the building industry. I know as a former plumber, the Honourable Ken Smith would understand this bill extremely well. He would understand the impact the situation has had on the building industry. However, as I said, there has been some impact beyond that. I shall specifically note the impact on a particular company in my electorate, a group called Savcor. I have met a number of times with representatives of Savcor Pty Ltd, a remedial engineering firm. The managing director, Nicholas Psaltis, has worked very hard to build up the business, which has operations and contracts throughout South-East Asia, Papua New Guinea and Indonesia. It

recently opened an office in Dubai in the United Arab Emirates. The firm is based in Hawthorn in my electorate and employs about 80 people.

The story with HIH is interesting. The firm specialises, in particular, in the high-tech area of electrochemical systems for corrosion prevention in industry. It works on bridges, wharves and similar structures. It is interesting to note that it has a contract with Vicroads that goes back to 1996. A number of modifications were to be done at San Remo. Difficulties were experienced with the project, and a claim arose. It is important to understand that Savcor had adequate and proper insurance with HIH throughout this period. Vicroads at that time also had proper insurance with HIH. At the time of the claim Vicroads had been in discussion with Savcor and HIH, which was managing and advising on the claim of Vicroads involving about $3 million, and likely more than the value of the sale of the assets of Savcor.

I use this as an example to demonstrate to the house the government's unsatisfactory two-sided approach on HIH. On one hand it is critical, as was Ms Mikakos, of the federal government. On the other hand the Victorian government does not want to accept any responsibility for the building industry and other industries in Victoria, yet it is pursuing vigorously, indeed arguably viciously, Savcor through its authority, Vicroads. It is doing so to the extent that proceedings are likely to cause the loss of 80 jobs in my electorate. I am sure this is not an isolated example. This is an example of the state government being very uncoordinated or deliberately pursuing this firm. Clearly, it is difficult for a firm like this, which is left without insurance and without the ability to manage the situation. It is clearly not in the interests of the community that a firm like this be pursued with such vigour when the insurance collapse has left it very vulnerable through no fault of its own.

Therefore, although opposition members would not want the state on every occasion to waive any actions or claims it may reasonably have against firms we also want to see decency displayed and a sensible implementation of these issues so that firms are not pursued to bankruptcy when, through no fault of their own, they are embroiled in the difficulties surrounding the insurance collapse.

I shall also comment about the broader issue of regulation and the Australian Prudential Regulation Authority. In a recent debate on a bill — Mr Hallam may remember it — comments were made about this issue. It is true to say at the end of the day that no arrangement for prudential supervision is ever perfect or foolproof. It is important that consumers are aware of that, and that we strive to have the best possible prudential arrangements.

I was particularly interested to read an article by Alan Wood in today's *Australian* and his comments about the difficulties of prudential supervision and of having perfect information. The truth is that with HIH not only did the regulators fail to pick up the difficulties with the organisation at an early enough point, but clearly the financial markets generally were also unable to make adequate assessments at an early enough point to bring the matter to the attention of the community and to influence the investors who have suffered tremendous losses in the process.

In this context it is important to comment on the management and the governance of the organisations. From examining the public coverage of the issue there is no doubt that the governance of HIH has been a concern. Undoubtedly we can all learn some lessons from that governance. Individuals have clearly benefited when the corporate whole has not prospered — and there are issues about corporate governance and how the community can supervise this sort of corporate governance, whether at a regulatory or government level or at a shareholder level. It is important that in future the larger institutional investors look seriously at how to make secure and safe investments of considerable amounts of money. The AMP, Colonial and some of the other large organisations that had involvement with HIH do not appear to have been able early enough to put their finger on the failures of corporate governance and the involvement of certain individuals.

It is not necessarily constructive to rehash in the house what has been run so widely in the press, but most honourable members would understand that a number of individuals appear to have walked relatively free of the process. It is important to place on record the community's concern about those aspects of corporate governance and about the behaviour of a number of those individuals.

I also want to comment on Premier Bracks and his handling of the issue. I do not believe at an early point he was sufficiently briefed. A number of honourable members may have heard one of his regular interviews on Tuesday morning on 3AW either last week or the week before — I am not sure when it was, but it was quite recent. When I heard the interview I was surprised and quite distressed at the Premier's understanding of and his ability to handle the issue. It seemed to me that he was quite out of his depth.

Hon. Jenny Mikakos — Come on.

Hon. D. McL. DAVIS — No, if you listen to that interview, Ms Mikakos, I think you will reach the same conclusion. I am not sure whether you heard it or not, but I think it would have been the conclusion of any fair-minded person who listened to the interview. Frankly I do not believe that was good enough from the Premier of this state, when a significant business collapse, which has made national and international news, has had such a significant impact on the business community, particularly the construction and building industry in Victoria. It is very important that that is on the record.

While the opposition is prepared to facilitate and does not oppose many of the bill's aspects, it understands the need to move swiftly to provide what remedy can be provided. I note that the legislation will provide significant remedies and will enable many builders to move forward in a smoother and faster fashion.

I also express concern about the activities of some of the insurers in the area. While assurances have been provided to the government by a number of the insurers — I do not wish to name any particular insurers — it would be fair to say that several insurers have not moved as swiftly as they could have to help remedy the situation. While they have a business issue and they need to carefully select those with whom they place insurance arrangements, in this situation I think they could have been more helpful to the broader community. They have some responsibility as an industry — it is not an unlimited responsibility — to work cooperatively, generously and helpfully with governments. I do not think that has occurred on every occasion.

Part of the reason for that may be that for some HIH has been an insurer of last resort and in a number of cases has been prepared to insure where other firms have not been prepared to insure. I make it clear that that is not a universal thing. Many builders who have had insurance with HIH are absolutely legitimate builders in every way. But it appears that HIH has not always applied the most prudent standards in every situation when taking on new business. It is important to place that on record in a constructive way and to make the point that other insurers picking up business from HIH may not move with the same alacrity. While that is understandable, I make the point that those insurers have a responsibility to be as reasonable as they can. This is an issue of community and industry concern, both in the building industry and more broadly.

The opposition is happy to expedite this bill. I place on record the opposition's thanks to the government for providing an adequate briefing last week. However, I also place on record the opposition's concern that the government has not been prepared to move on the issue of stamp duty and the stamp duty fee. The opposition is concerned that the Victorian government has not been prepared to follow the lead of the New South Wales government and remove the stamp duty obligation for existing HIH insurance holders who obtain new insurance. This is a simple, practical step the government could and ought to have taken. Treasurer Egan in New South Wales has been prepared to remove the stamp duty, and it is not clear to me why the Victorian government has not been prepared to remove it. The government's sincerity would have been greatly enhanced if it had been prepared to follow the lead of its New South Wales colleagues. I conclude at that point, having said quite a number of useful things.

Hon. R. M. HALLAM (Western) — At the outset I signify that the National Party will support the House Contracts Guarantee (HIH) Bill and believes it represents an appropriate response by government. The National Party commends Minister Kosky and her staff for the relief package put together at short notice. We acknowledge the real urgency in what is a painful situation, but it does not change the fact that this is a sad bill.

The collapse of HIH, a major insurer, has created thousands of casualties, and many people throughout the community have been badly hurt by it. I understand the extent of the losses may eventually approach $4000 million. One does not have to be Einstein to work out the countless cases of hardship and in some cases financial ruin that will result from the collapse. Parliament is addressing a tragedy, particularly as the massive losses incurred apparently were experienced despite the supervision of the regulatory watchdog, the Australian Prudential Regulation Authority. It defies belief that losses of that dimension could have been accumulated without either the directors of the company or the regulator reaching for the whistle. That is another story and is one which may not be fully understood until some time further down the track, but Parliament has to react to the circumstances confronting it and respond to the real position.

Although the National Party supports the bill, it is a bandaid, and a poor one at that. It will provide some relief for the victims of the collapse. The National Party acknowledges, at least insofar as it understands it, that the bill goes some way beyond the technical liability of the state and to that extent it is driven by the need to do the right thing — it is a moral responsibility rather than

a legislative or technical responsibility. I commend the government for that stance.

There are always two sides to any story, and this one has two sides. I am not surprised to hear that there are many people critical of the concept that government should step in to bail out a private sector organisation. It is a legitimate question to pose. Why should public funds be used to bail out some people who have made a bad choice in respect of the selection of an insurer, particularly when it can be demonstrated that the selection of that insurer was motivated by the low premiums being offered by the company? It is a fact of life that HIH's premiums were substantially cheaper than its nearest competitor for a long time. That has changed in recent months, but the market factors are clear. The National Party acknowledges the extent to which the community is able to ask why the principle of caveat emptor does not apply in this case. I am reminded of all the issues raised in respect of the dilemma that confronted us with the demise of Pyramid Building Society. The same questions and accusations are equally logical in the circumstances.

The National Party has come to the conclusion that there is not much choice. There are three or four factors that were taken into account at a meeting of members of the National Party in determining its position. The first was that Parliament had decreed that without a builders warranty insurance cover builders could not build, councils could not issue building permits, owners were not protected against builders' defects and property owners were not able to sell or pass title to their property without evidence of that insurance. So Parliament is unable, to that extent, to wash its hands of this matter because it has entered the arena.

The second issue taken into account was that HIH had secured a substantial share of the market. We are told it had at least 30 per cent of the builders warranty component of the market. With a market share that size the demise of HIH means the whole sector is put on stand-by, with massive flow-on effects. Many individuals throughout the community remote from the building industry and who have no association with HIH are now caught up in the imbroglio.

The building industry is not just a major sector of our economy; to a large degree it is the barometer of the economy. It is at the sharp end, and a cough in the building industry sends a shudder through the entire economy. That is what has happened. The demise of HIH is a classic example of that. There is a rippling effect throughout the economy, and the community is at risk. No-one is immune from the flow-on effects of the demise of HIH, and in those circumstances the government cannot say, 'It serves you right', and leave it to those directly affected to find their own solutions, even if it is tempted to do so, because there are too many innocent victims involved.

The third issue taken into account was that it is tough to blame the consumer, because in most instances anyone who understands the building industry recognises that there is little connection between home owners and insurance. In most cases the cover is arranged through the agency of a broker. That muddies the water even further, and it is hard in those circumstances to even contemplate the caveat emptor principle. The National Party came to the conclusion Parliament had no choice other than to support some form of remedial package. It was impossible to leave people swinging because the ramifications would be catastrophic. The collapse of HIH is the biggest corporate crash in the history of Australia. It defies description. It has dimensions no-one has contemplated, with the net loss estimated at $4000 million. I will not even begin to try to describe its implications. It is salient to remember that in Victoria we are dealing with the issue at the margin. The impact on our building sector is small bickies compared with the rest of the agenda. The government trumpets the fact that the bill involves a $35 million salvage package, but when you strip away the veneer you find half of that is to be extracted by an increase in the cost of building permits, so we are talking about a $17 million salvage package compared to a $4000 million loss! We should put it into perspective.

This is not some massive breakthrough in terms of revenue for the HIH disaster, as terrible as it is, it is an issue at the margin. In any event the National Party acknowledges that Victorians will be badly hurt as a result of the disaster. The point I make is that the bill is really a side issue compared with the nightmare that will apply across the nation as a whole.

The other issue taken into account by the National Party is the acknowledgment that Australians place great store in home ownership. They feel strongly about the concept. For many of us the purchase of the family home is the biggest single transaction we undertake in our lifetime, so it comes to mean a great deal more than appears on the surface. We get to care a great deal about the family home, and when something goes wrong it is a big deal. If the workmanship turns out to be shoddy or the builder goes belly up, the issues become very big, because it represents a lifetime interest and may be our lifetime savings. The issues become important and passions run high.

It is against that background that the states, without exception, legislated some years ago to provide

protection for those who were making a lifetime investment in their homes. In Victoria's case builders warranty insurance was made mandatory under the Housing Guarantee Fund Ltd for some years, but that was ultimately replaced in the mid-1990s by the standard policy offered by private insurers.

The way that works is important in the context of the bill, which effectively means that each qualified builder takes out a policy with an insurer offering cover that meets the guidelines stipulated by the legislation. That is the way it works in Victoria. It is important to draw a distinction between the way it works in Victoria compared with New South Wales, because in New South Wales the state actually approves the insurer. The list of insurers is given a tick by the government, and in these circumstances that has raised a question mark as to the state's responsibility. After all, it is claimed that in New South Wales, at least to some degree, HIH was approved, whereas in Victoria the only approval went to the policy cover that was provided by HIH, among others.

Going back to the cover, it means that a builder cannot be registered without evidence of that appropriate cover; that councils cannot issue building permits without evidence of that cover; and that the policy is held by the owner and places an obligation on the insurer to ensure any fault becoming apparent within seven years of completion of the home is remedied. In the normal circumstances that fault is rectified by the builder in the normal course of events. The contract also means that the owner cannot sell the property without evidence of the insurer's continued obligation, which has become known in the trade as the section 32 certificate. It is a unique insurance cover — there is nothing like it anywhere else in the market so far as I am aware.

For the home owner the policy provides protection in respect of any fault that emerges further down the track. For the builder it represents an up-front cost reflecting the assessed risk of having a third party guarantee that the home will be fault free for seven years. In those circumstances the biggest single factor taken into account by the insurer is the reputation of the builder. A great deal of time, thought and care is given to the builder's reputation. To the insurer the cover represents income, and it is that income that is required to underwrite the builder's performance. The insurance is designed to cover the assessed risk of the builder going out of business or simply failing to remedy any fault that emerges during the seven years. It is a most unusual cover — it goes for seven years from the point of completion of the building contract, but the premium is paid up front on day one. When the insurer goes belly up, as has happened in this case, several years of unearned premium income may be involved. It is a complex circumstance. It is not something we would normally expect to come across.

There are several categories of problems that have emerged from the collapse, although we are restricting our comments to the building sector in this context. The first of those complications goes to the question of replacement insurance. One must remember that the builder is unable to continue with his trade without evidence of that cover, so we must immediately be concerned about alternative insurance arrangements that would be applicable after the HIH collapse on 15 March. We know the Building Control Commission is heavily involved in coordinating the securing of replacement insurance. Beyond that, it is primarily a procedural issue.

The worst that can happen to a builder is that he or she loses the equivalent of the unearned premium. From that point of view it is not so much an issue of financial loss as one of down time, the time taken to secure the alternative cover, remembering that the contractor is out of business until that cover is secured. Some costs are involved with that down time. I know from first-hand experience that it involves some frustration and there is some flow-on, particularly in respect of subcontractors and suppliers. It is appropriate that the government step in to do what it can to facilitate the speeding up of that process of securing alternative insurance.

There are two asides that are apposite to the circumstances we are confronting. The first is that the demise of HIH has sent extraordinary shock waves throughout the entire building sector. Among other things it has raised a whole range of questions about the appropriateness of the existing insurance premiums and the cover that has been secured. It has raised some basic issues, particularly in respect of the underlying risk. I have received a number of concerning reports about the attitude taken by the remaining insurers. I must say that I am not sure of the extent to which the concerns represent market opportunism as opposed to the assessment of the high risk. I am not sure anybody can come to a conclusion on that, but the insurers already in the market have a walk-up start, because they know that all the contractors out there must have cover and must have it quickly to avoid restriction of their trade.

The insurers have the contractors in an unenviable position — to put it in the vernacular, they have got them by a certain part of their anatomy. The bottom line is that the insurers are being much tougher, premiums are certainly higher and they are requiring a whole range of other conditions as part of the renewal process,

such as bank guarantees and directors' indemnities. I have it on very good authority — I know it is anecdotal — that more and more contractors have said, 'Well, this is just a bit too hard, and maybe this is a good excuse for us to exit the industry'. This is not only about financial impact going forward, it is also about the size of the industry.

The second aside concerns an issue that was touched on by the Honourable David Davis. The replacement insurance policy incurs duty, and to the extent that the cover is a replication of the cover that was voided by the demise of HIH, the duty is duplicated. The question that has been put to government is, 'Why would the government not agree in those circumstances to waiving the duty?'. It is clear that in the eyes of the builders at least the state is busily clawing back some advantage from the misfortune of others.

That issue was put to the Premier at a hearing of the Public Accounts and Estimates Committee recently. He said that it was not a big deal, that the government's primary responsibility was to get the industry going again and that it was working assiduously to that end. His view was that the duty may be in the vicinity of $1 million and is 'not a big deal'. That was the comment the Premier made.

I make two responses to that. The first is the one offered by the Honourable David Davis — that is, apparently the New South Wales government has taken quite a different view to that and has agreed to waive the duty on the replacement insurance cover. It looks a bit mean for the Victorian government not to take a similar stance. The second comment is that perhaps it is only $1 million, but the symbolism would have been very important indeed, particularly to an industry which is under attack from almost every direction.

The bill is required to address several run-off issues, and I will comment on them briefly. They go to the issues confronting an owner who is still within the seven years of the warranty term. The bill covers those home owners irrespective of whether a fault is recognised and may relate to one which emerges later. It covers those owners who do know about a fault but have not yet secured a remedy. Some classic examples fall into that category; perhaps the most significant is that of the Avonwood Homes group. Another category concerns home owners who are aware of a fault and have had acknowledgment from a builder but have yet been unable to have the repairs carried out.

The bill overcomes all those circumstances by authorising the Housing Guarantee Fund to process claims that would otherwise have gone to HIH. The way that will work is that the HGF will supervise the repair process, by either arranging for the builder to undertake the remedial work required or pursuing the builder through legal process for payment or, where the builder has gone out of business, arranging and paying for another builder to complete the works.

Members of the National Party acknowledge that participation in the scheme will be absolutely voluntary, that home owners will be able to make a choice as to whether they want to be part of the scheme and if they do they must assign their rights in respect of any liquidator's dividend in the distribution from the HIH wind-up. We also acknowledge that the same benefits that applied to the original policy will prevail — that is, that there will be a cap of $100 000 on any payment. We also acknowledge that if a builder refuses to contribute to the correction of a defect, the Building Practitioners Board will have the authority to cancel the builder's licence. That sounds a bit tough when considered in isolation, but I hasten to assure the house that that authority is already there, at the behest of any of the other insurers. What we are really doing here is replicating that authority and passing it across to the HGF. We also note that claimants against the fund will have the same appeal rights as if they were still dealing with HIH and, as has been noted by the Honourable David Davis, that includes the ability to take disputed matters to the Victorian Civil and Administrative Tribunal.

Importantly, the law will be changed by the bill to validate HIH policies for the purposes of selling a home so that the so-called section 32 certificate is maintained. That was absolutely pivotal to the position of members of the National Party. We note the funding positions and the commitment made by government. We understand that on actuarial assessment it represents a $35 million salvage package, half of which is to come directly from the budget and half from a levy placed on domestic building permits. That represents an additional $32 for every $100 000 of building works.

Members of the National Party ask how that commitment is to be met. We were told as recently as this evening that the first allocation to the fund shall come from a Treasurer's advance and that in future years there shall be a direct appropriation to meet the government's share of that commitment. We understand the funds flowing from the levy on building permits will come progressively over the years for remedial work. We would like some assurance from the government as to how that fifty-fifty funding deal shall be applied. We are looking for a commitment from government that, whatever the ultimate cost of the package turns out to be, the funds derived from the

increase in building permits shall constitute no more than half — in other words, we are asking for an assurance from the government that builders in this state will not be asked to contribute more than half the cost of the bailout.

Members of the National Party also acknowledge that the indemnity fund to be established shall be quarantined from all other state and housing guarantee funds, that it shall be audited by the Auditor-General and be subject to the standard external reporting requirements. We understand the scheme will automatically sunset, as will the state's capacity to collect the additional domestic building levy.

Finally, members of the National Party were persuaded to at least some degree by the protection offered to the builders in terms of their continuing registration. We understand the Building Practitioners Board shall be undertaking the process of renewals on 13 June in respect of the continuation of builders registration. We also understand that as the current rule book applies the suspension of those who have no continuing insurance should be mandatory.

The bill apparently extends some automatic coverage up to 31 July. We understand that will get most of the builders past the point of replacement. I also want to put on record that as far as I am aware the Premier has in a press release given a commitment that in circumstances where 31 July is an inappropriate extension date a further extension would be considered beyond that. We are looking for an assurance from the government that in the renewal process no builder will be disadvantaged in the technical extension of the replacement process.

That is a fair summary, I hope, of the bill. Members of the National Party take the view that this is a very painful experience. We are concerned about how it was allowed to happen, but that is not the issue for debate in the chamber tonight. We regard the bill as a rational response on the part of the Victorian government. Apart from a few questions that go to the mechanics of the remedial package, we acknowledge that we are happy to endorse the thrust of the bill and we wish it speedy passage.

Hon. JENNY MIKAKOS (Jika Jika) — I am pleased to make a short contribution on behalf of the government on the House Contracts Guarantee (HIH) Bill. I am pleased to acknowledge the fact that the Liberal Party and the National Party support the legislation, and I also acknowledge the very urgent circumstances in which the legislation has been introduced.

I commend the Minister for Finance in the other house and other relevant ministers, including the Minister for Consumer Affairs, for the speed with which they have been able to address a critical problem faced by many home owners and builders in Victoria as a result of the collapse of the HIH group of companies and the appointment of provisional liquidators to those companies on 15 March.

Many honourable members will be aware of the particular circumstances in their electorates where home owners have been unable to sell their properties due to the collapse of HIH Insurance or where building work in progress has ground to a halt because builders have not been able to obtain indemnity insurance. The government has taken a moral position, as the Honourable Roger Hallam noted in his contribution, in deciding to offer an assistance package to Victorian home owners and to insert certain provisions in the act relating to Victorian builders to ensure that the Victorian housing industry continues to be the engine of growth that it already is in this state.

It is important to note at the outset that the circumstances of the HIH group of companies going into provisional liquidation are circumstances that may well have been preventable. The collapse of the companies has been reported on by a number of commentators in the financial media and in the media generally. It is clear from that commentary that the role of the Australian Prudential Regulation Authority needs to be examined, as does the role of the federal government in supervising APRA.

I urge all honourable members to read Alan Kohler's article at page 56 of the *Australian Financial Review* of 6 May, under the heading 'Forget finger-pointing, just fix it'. He provides a useful analysis of the role of APRA and the clear failings in the system of prudential supervision of insurance companies and the various lax standards that apply in the insurance industry. It is important to place on the record the following quote from the article that summarises APRA's failure to properly supervise:

> There are two connected issues: whether APRA has been on the ball and whether the legislation is adequate.
>
> HIH's collapse could have been prevented if either of these things had been accounted for. But APRA was busy getting established while the laws governing prudential standards in general insurance were (and still are) discretionary. In other words, provisions for outstanding claims and asset valuations are up to directors, and there are no statutory external actuarial examinations. And the accounting standard on which the auditor relies is uniquely inadequate. Industry sources said on Friday that AS1023, which deals with general insurance, discouraged prudence in the setting of provisions for outstanding claims by prescribing the minimum standard

> as all accounting standards do. Other such standards around the world require a prudential buffer.

The article goes on to state:

> … when the regulator was busy with other things, as it was during and after the Wallis inquiry, there were no clear statutory standards for directors and auditors to keep businesses off the rocks.

Mr Kohler's article is useful. I encourage honourable members to examine it and bring themselves up to speed on the failure of various accounting standards and prudential practice standards. Alan Kohler notes that the Insurance Council of Australia — which at the time was headed by Mr Adler, who was also the head of FAI, which merged with HIH — was very much opposed to any changes to the prudential system as it operates in Australia.

I note also that FAI and HIH have for some time been substantial donors to the Liberal Party. Once the royal commission gets under way it will be important to examine exactly what influence the Insurance Council of Australia, FAI and HIH had in the inadequate supervision by APRA of Australia's insurance industry.

Honourable members will be aware that the collapse of the HIH group of companies constitutes the biggest corporate collapse in Australian history. The provisional liquidator of HIH has already indicated to the federal government that the insurer's losses could blow out to $5 billion. It is regrettable that the collapse of the company may have a huge impact on Australia's economy. The collapse is causing a great deal of grief and distress to many Victorians and many Australians. The Victorian government, although it is not legally compelled to offer the package, felt it was morally obligated to assist Victorian home owners and builders, given the HIH debacle that APRA and the Howard government are clearly responsible for.

I note that during his contribution the Honourable David Davis commented on what he said was the Victorian government's slow reaction to the collapse of HIH. It was actually the pressure put on the Howard government by the state Labor governments in Victoria, New South Wales and Queensland that led to a belated response from the Howard government and the federal Minister for Financial Services and Regulation, Joe Hockey.

The Victorian Minister for Finance in the other house announced on 14 May that the Victorian government would be moving to implement a rescue package for home owners. That announcement prompted the Howard government's subsequent response on 21 May during the federal budget process, when the federal minister announced the hardship relief measures and the establishment of a royal commission.

Although the Bracks Labor government welcomes the hardship relief being provided by the federal government and the announcement of a royal commission, it is important to note that to date the Australian public is still waiting for the terms of reference of the royal commission and the name of the royal commissioner to be announced. It will be important for the royal commission to focus on the actions of ministers of the Howard government and advice given to them by APRA and the Australian Securities and Investments Commission, as well as the federal government's handling of insurance industry regulation issues and the role of donations to the Liberal Party in the whole HIH debacle.

It is important to remember that the package and the legislation were announced as quickly as possible despite the fact that Minister Hockey at the federal level was doing nothing for more than two months after the appointment of the provisional liquidator. It is also important to remember that the Howard government's first response to this debacle was to announce that the head of the Australian Securities and Investments Commission, Mr David Knott, would investigate the whole HIH debacle despite the fact that it then became apparent that Mr Knott had a conflict of interest in that he had previously served as a board member of the Australian Prudential Regulation Authority. What an absolutely pathetic response on the part of the Howard government! It is also important to remember that the Howard government only announced a royal commission into — —

Hon. K. M. Smith — On a point of order, Mr Deputy President, I think the honourable member has gone on for far too long discussing issues that are irrelevant to the bill. She is talking about federal issues, not about the bill before the house. I ask you, Sir, to draw her back to the bill and to urge her to get on with the debate.

Hon. JENNY MIKAKOS — On the point of order, Mr Deputy President, I regret that I felt it necessary to respond to a number of points made by the Honourable David Davis in his contribution. I think it only appropriate that I be able to respond in kind.

Hon. K. M. Smith — Further to the point of order, Mr Deputy President, the opposition has issues and the opening speaker has the right to raise those issues. The government member does not have the opportunity or need to debate those issues as fully as the opposition member did.

The DEPUTY PRESIDENT — Order! This house has always enjoyed wide-ranging debates. While it is true that the lead speakers have more latitude, other speakers enjoy latitude as well. However, I urge the honourable member to draw her remarks more closely to the bill than she has been doing and ask her to continue.

Hon. JENNY MIKAKOS — I know it hurts opposition members to hear that the Howard government failed to properly introduce legislation to supervise the insurance industry in this country and failed to properly supervise the role of APRA. However, I am commenting on the Honourable David Davis's claims that the Victorian government responded too slowly. I categorically refute that claim because the facts speak for themselves.

Hon. D. McL. Davis interjected.

Hon. JENNY MIKAKOS — You may not like those facts, but they clearly show that the Howard government announced a royal commission into the HIH debacle only after Labor governments in Victoria, Queensland and New South Wales announced that they would organise their own royal commission if the federal government failed to act. It is clear that Mr David Davis has either not been reading the newspapers or is feeling extremely uncomfortable about the roles played by Joe Hockey and the Howard government in this matter. They are up to their necks in all of this, as will become apparent once a Beazley government commences the royal commission and a proper and full inquiry is conducted into the circumstances surrounding the HIH collapse.

Hon. K. M. Smith interjected.

Hon. JENNY MIKAKOS — I look forward to such a royal commission being undertaken, Mr Smith, because we will then get to the bottom of how the Howard government turned a blind eye to the mystery of the donations made to the Liberal Party!

As part of this legislation the Bracks government has announced a $35 million package for victims of the HIH collapse. As has been pointed out, that package will be partly funded by an increase in the levy for domestic building permits and partly funded by consolidated revenue. The Honourable Roger Hallam sought assurances on how that fifty-fifty split would be maintained over time. I can assure him and other honourable members that, as they would be aware, the bill provides for the Housing Guarantee Fund to prepare and lodge annual reports with Parliament. Those annual reports will include independent actuarial advice, and the report to Parliament by the HGF will also be monitored by Treasury and the Auditor-General.

The bill has many provisions to deal with transparency issues, which is in stark contrast to the subterfuge engaged in to date by the federal government when dealing with this issue. Given the time, I will focus on some of the key aspects of the bill. I believe the Honourable Roger Hallam has gone through the overall contents of the bill in some detail, as did the Honourable David Davis. The main beneficiaries of the package will be those people whose building projects were covered by HIH and were not complete because the builders went out of business. Other beneficiaries will be persons who have completed a home in the past seven years and found faults that would have been covered by the HIH group of insurance companies and also people who have HIH insurance and are now not able to sell their homes because they are unable to state in their section 32 certificates that they have valid compulsory insurance policies.

The bill seeks to amend a number of pieces of legislation, the key provisions being clause 3, which amends the House Contracts Guarantee Act 1987 and states that the purposes of the House Contracts Guarantee Act will now include allowing an indemnity scheme to be established for losses arising from certain classes of domestic building work affected by the HIH debacle.

Clause 5 of the bill seeks to amend the memorandum of association of the Housing Guarantee Fund Ltd, and I note that the Housing Guarantee Fund is a corporation established under Corporations Law.

Clause 8 is probably the most important provision of the bill. It seeks to insert a new part 6 into the House Contracts Guarantee Act. I note in particular that proposed section 37 to be inserted into that act provides that the state will indemnify any person entitled to an indemnity under a HIH policy to the extent of the indemnity under the policy and that proposed section 37 should be read subject to proposed section 38, which sets out the exceptions, the most important of which relates to building work which had not commenced on site before 31 May 2001.

Other key provisions of the bill include proposed section 43, which is to be inserted into the House Contracts Guarantee Act 1987, and relates to a requirement that any person making a claim to the Housing Guarantee Fund Ltd assign any rights that they may have against the provisional liquidators of the HIH group of companies. Also, proposed section 44

empowers the Housing Guarantee Fund Ltd to require a builder to make any necessary payments or to rectify work.

As I noted earlier, a number of provisions in the bill relating to transparency issues are included in new division 3 to be inserted into the House Contracts Guarantee Act, and I will not go through all of them in detail. I note that the Housing Guarantee Fund Ltd is required to report on its financial operation to the Minister for Consumer Affairs, the fund is to be audited by the Auditor-General and in its annual report to Parliament the fund will include audited financial statements of the fund and a report of the operation of the scheme.

Other important provisions in clause 8 include proposed section 53 of the House Contracts Guarantee Act, which will enable the Housing Guarantee Fund Ltd to enter into arrangements and agreements with the liquidator of the HIH group of companies.

Part 3 of the bill relates to a number of amendments to the Building Act 1993. The most important provision is clause 10, which seeks to amend the Building Act to enable the Building Practitioners Board to defer the automatic suspension of a builder's registration where the builder does not have builders warranty insurance or a certificate of eligibility for builders warranty insurance at the time of renewal. The provision is necessary because builders' registration is coming up for renewal very shortly and it appears that a number of builders have still not managed to obtain new insurance with other companies.

I note that the board's discretion to defer suspension in the circumstances will expire on 31 July 2001, because consultation by the government with the insurance industry suggests that that should be ample time for any remaining builders who have not yet obtained warranty insurance to do so.

The other key provision in the bill relates to clause 13, which imposes an increase in the building permit levy to a rate of $32 in each $100 000 on building work where the building work costs more than $10 000. Clause 17 amends the Sale of Land Act 1962. This amendment is necessary because currently there appears to be some doubt among members of the legal profession as to whether a person is able to sell their home where a section 32 certificate shows that HIH builders warranty insurance applied to that home. The provision in clause 17 removes this doubt as it will allow home owners to sell their homes where they previously were covered by HIH insurance, because they will have access to the package being provided by the government.

I welcome the passage of the bill and the fact that the Victorian Bracks Labor government has moved quickly to address the very real needs of the Victorian building industry. The government is confident this package will enable the Victorian housing industry to continue to be a significant source of economic growth for this state. I look forward to a full and proper inquiry being held into the reasons for the collapse of the HIH group of companies under a future Beazley Labor government.

Hon. C. A. STRONG (Higinbotham) — I speak in support of the bill, but before I start my contribution I shall comment on the fairly juvenile and shallow attempt by the honourable member opposite to deal with a bill that has cross-party support and has been facilitated to come before the chamber tonight. It is a good bill and it should be talked about, yet all we heard was a juvenile attempt to blame world hunger on the Howard government.

Hon. R. F. Smith interjected.

Hon. C. A. STRONG — It is absolutely juvenile to speak this way on a good bill that has cross-party support. To spend some three-quarters of the debate on that sort of behaviour is unnecessary and demeaning to the house.

The bill is extremely necessary and timely because the building industry is a major segment of the economy of Victoria, and certain things are required to build domestic buildings. To get a building permit, you need insurance. To be a registered builder, you need to have insurance. When you are carrying out a building project, you need insurance. When anybody sells a property, insurance is needed. The reality is that without domestic building insurance the whole industry grinds to a halt.

Permits cannot be granted, builders are no longer registered, people cannot sell their houses, and buildings cannot be completed because it puts in question the whole issue of whether building works are legal under the act and whether progress payments can be made. It puts in question the viability and financial security of everybody in the whole building chain. Therefore it is necessary legislation to deal with a very urgent issue. As the Honourable Roger Hallam said, there is no doubt the actions of this Parliament in requiring insurance through all these stages of the building process mean there is some obligation on the government to try to find a solution.

I believe the bill effectively does that because it empowers the Housing Guarantee Fund Ltd to step into the shoes of HIH. The Housing Guarantee Fund Ltd has significant experience in managing these issues because it was the body that undertook this insurance activity before there was a requirement for private insurance.

It has the skills, the systems and the knowledge to administer the scheme. It is a good solution to get the Housing Guarantee Fund to step into the shoes of HIH, and it will work extremely well. The possible liability of the scheme is estimated to be in the order of $34 million, which is to be spread over a life span of some seven years, although it should be noted that most of the liabilities under the scheme will come in the first two or three years. The $32 per $100 000 building levy will continue for some years but in the first couple of years it will certainly not meet the projected claims.

It will be a good system in which the government will fund the anticipated heavy initial draw-down on the scheme in the first two or three years and in which the modest building permit levy will continue throughout a much longer period to gradually pay off that fund until the fifty-fifty point is reached.

The passing of this bill, which we hope will happen tonight, will be a positive signal for the industry. Many builders out there are either not able to complete projects on which they are working or are completing those projects on a semi-illegal basis. Many people are having problems selling their properties because they do not have the insurance required under the law to sell them. The bill will ameliorate a lot of those problems the industry has been having.

It should be noted that these problems have been around for some months, and the current state of the industry is critical, so it is important that the bill passes quickly. It is of some regret that the urgent need for this bill was not anticipated and acted on earlier. Nevertheless, that being said, it is highly appropriate that the bill be passed. From what we have been led to understand of the scale of the problem from the various briefings, there are already quite a few claims outstanding. I understand there are some 400 claims outstanding in the system and that a significant number of those are against Avonwood Homes. The people involved in the Avonwood Homes collapse are quite desperate, and this bill will offer very timely help for them.

Already a significant number of claims have been made to the Victorian Civil and Administrative Tribunal. When a building defect or problem is notified to the insurer, the first thing the insurer does is look to the builder to rectify it, and if problems arise in that process it ends up at VCAT. As I understand it, there are currently some 70 ex-HIH claims at VCAT, so there is quite a bit of cleaning up to do. As I said, I am confident the Housing Guarantee Fund is the most appropriate vehicle to manage those issues.

I congratulate the government for coming up with this solution, which deals with a lot of the problems that are on foot and with what is commonly called the tail of the problem — that is, those buildings that have up to seven years residual to run. Many do not have the full seven years to run; there is a range of a tail of five to six years to run down to three to four years to run. As I have already said, people who had new houses built four or five years ago who now want to sell them cannot do so because they cannot produce the insurance certificate.

The bill deals essentially with works in progress or works that have started. There is another category of backlog in the building industry — that is, projects that have not yet started. The problem with them is that to get a building permit a builder must have insurance and, as has been said by other speakers, there is an enormous backlog of builders trying to register for reinsurance. The last figures I am aware of indicated that one of the major insurers, Dexta, had a backlog of some 10 000 or 15 000 applications and was processing them at the rate of 10 to 12 a week! I am very concerned that the end of July cut-off date will be a problem for the works in progress and that the slow reinsurance of builders will be a real inhibition to the commencement of new works and to the granting of building permits for new works.

It is a great pity that this scheme was not made available to ex-HIH builders who had permits for new work. They could have had the same cut-off date of the end of July, which would have allowed all those new projects to get off the ground. No doubt there would have been some extra risk and the fund would probably have required a few more million dollars to cover that risk. However, as has been said by other speakers, the government's contribution of half the estimated $34 million over seven years is fairly modest, as is the contribution of the building industry at $32 per $100 000 of building permit. It is a great pity that the scheme could not have been extended to deal with the thousands of builders out there who cannot start the work they have because they cannot get insurance. That has had a significant impact on the economy.

One of the key issues in the reduction of the pool of insurers is the fact that, come the end of July when the moratorium on deregistering builders who do not have

insurance expires, the builders who do not have insurance will drop off and they will be out of the scene.

There will without doubt be significantly fewer builders out there as a result of that. This is a significant lifting of the barriers to entry in this field. If you have less competition and higher barriers to entry, there is absolutely no doubt that those remaining in the industry will be able to charge higher premiums. We all know that the higher the barriers to entry, the greater the premium those inside the fence are able to charge. That is very unfortunate.

The other thing that will do — I refer this to the minister and the officers — is drive a change to the building industry. We will find that rather than builders, we will have a lot of project managers who will act on behalf of owner-builders. Changing the barriers to entry will create a premium for those that are in the gate and will also have the effect of again allowing scammers to get in through this owner-builder, subcontractor, project manager arrangement. I think that needs to be looked at carefully, because more and more people will be forced to build uninsured because that will be very much cheaper.

With those few comments I add my strong support to the bill and say how sorry I am that this debate got so unnecessarily mixed up with federal political issues, which it has nothing to do with.

Hon. W. R. BAXTER (North Eastern) — I am happy to join the debate, and I fully concur with the remarks just made by the Honourable Chris Strong. It was quite unnecessary and unbecoming for the failed candidate for the federal seat of Batman, Ms Mikakos, to launch into the sort of tirade she did against the federal government and, more particularly, to show utmost disrespect to the house in leaving. I am glad she has now returned.

I notice it is becoming a habit of government members to come in here, make a slanging contribution and then depart without participating in the balance of the debate. I know on occasions they claim it is because they are returning phone calls to constituents or attending departmental briefings or whatever, but bearing in mind that it is now 23 minutes past midnight I do not think either of those excuses would hold water tonight.

If Ms Mikakos wishes to criticise some of the actions taken by the federal government, she might have regard to some of the rhetoric and comments of her own ministers, to wit the Minister for Finance, who I heard on numerous occasions on talkback radio and the like making the most outlandish, extraordinary and unhelpful comments just when this issue was breaking. At the end of the day her rhetoric was surpassed only by the rhetoric of the Premier of New South Wales and his Treasurer. They were even worse than Ms Kosky, but only marginally so. To claim that this government is doing something wonderful with $35 million, half of which is going to be an impost coming from people building new homes, when in fact all the government is doing is picking up its statutory responsibility and expecting the federal government to pick up other responsibilities that are less clearly the responsibility of the taxpayer, is I think quite unnecessary and unfair.

Clearly the state has a statutory responsibility to pick up any deficiency in Workcover and in the Transport Accident Commission (TAC). I am not expecting the liabilities through the failure of HIH in those two schemes will amount to very much, bearing in mind the way the system is run in Victoria, but what liabilities accrue I am not expecting this government to pick up. I am quite sure the government will expect the employers to pay through increased premiums in the case of Workcover, or the motorists to pay through increased charges in the case of the TAC.

In the case of the house builders guarantee, as Mr Hallam so adequately explained, this Parliament over many years has imposed conditions upon builders in Victoria, and of course there is an obligation — moral and legal, I would have thought — to do something to overcome the dreadful problems that have been imposed upon some people through no fault of theirs because of the failure of this insurance group. I think Ms Mikakos, in her eagerness to make a political point, got the debate off on a completely wrong tack, because it had been acknowledged by previous speakers that credit was being given to the government for acting rather speedily, bearing in mind that the company went into receivership on 15 March and here we are early in June. It is only seven weeks since the collapse occurred, and the Parliament is legislating. That is a fairly speedy response, bearing in mind the complexity of the issue.

Hon. R. M. Hallam interjected.

Hon. W. R. BAXTER — Yes indeed, Mr Hallam, and your graciousness was taken advantage of quite unnecessarily.

Honourable members interjecting.

Hon. W. R. BAXTER — The failure of HIH has had dramatic effects across a range of people, not only

house builders. I have, for example — I am sure all honourable members have similar cases — a case of a real estate agent who was being sued for alleged breach of professionalism. He was insured with HIH. It fell over, and he is having to carry the cost himself. The plaintiff does not have very good grounds for taking him to court and is unlikely to win, but even worse, the plaintiff has absolutely no substance at all, so if the defendant wins and costs are awarded to him, he will be whistling in the dark for them. Clearly he is in a very difficult situation with his insurance having fallen over through no fault of his.

A swimming pool contractor in my electorate has nearly half a million dollars worth of work in limbo. It is on hold simply because he is unable to get a fresh insurance policy processed for the very reason that Mr Strong alluded to: the number of applications going to the remaining insurers is so high and their capacity to process them seems to be so slow that he is in danger of going bankrupt while he waits for a fresh insurance policy to come through. I fully concur with Mr Strong's suggestion that it would have been a good idea if this legislation had included, as well as work in progress, consideration being given to 31 July work where the building permit had been granted. It would have allowed those projects to get under way, and the people who are now at grave risk of going under financially would be able to keep going.

I want to make a couple of other points. The genesis of the bill and its provisions have been well canvassed by earlier speakers, in particular by Mr Hallam, but I want to give honourable members an idea of the sorts of difficulties I think we are going to have to confront in the building industry. Mr Strong has alluded to them. Some honourable members will know that during the 1980s I was engaged in an almost constant battle with the then House Builders Guarantee Fund, which I believed at the time had been captured by the Master Builders Association of Victoria and the Housing Industry Association and was not delivering at all to consumers. To that extent I was quite keen to see the changes that were made in the 1990s.

Hon. R. M. Hallam — Passionate, I would have thought, Mr Baxter.

Hon. W. R. BAXTER — Passionate, you would have thought, Mr Hallam. I would have to say now that maybe we are going to have to have another look at it. Part of the reason for having another look at it is the action of HIH in going out there and endeavouring to buy market share and setting the premiums at an unsustainable level, so that having collapsed in the process it has given the other companies the opportunity — or perhaps the requirement — to raise premiums in order to cover the risks they now perceive.

One of the problems I have with what they are doing is that it seems the insurance companies are risk averse and are endeavouring to place requirements on builders. That means the builders are bearing the risk and the insurance companies are collecting the premiums without bearing much risk at all. It is rather like some banks who want to lend money. They tie you up to such an extent that they are not bearing any risk, and you pay quite dearly for it.

I have received correspondence from a builder in the north-east. He is not a constituent of mine; he is from outside my electorate. To illustrate some of the problems Parliament will have to confront I will refer to a document that sets out the scene:

> Since 1995, we have dealt with the home owners warranty affiliated with the HIA.

The builder was not insured with HIH, but the HIH collapse is impacting upon him quite severely. The document continues:

> After the collapse of Avonwood Homes last year, they put builders into categories or set limits on the value of jobs they could complete. We were put on a $230 000 limit for a single dwelling … We recently priced a home and because of the fine quality of fixtures and fittings chosen, resulted in the contract price being $350 000. We applied to increase our limit to complete this project, supplying extensive financial information to accompany the application. We were asked to sign a general deed of indemnity. It states that we should seek legal advice before signing the document which we had done. We were advised not to sign the deed.

I have the legal advice. I do not intend to read it all, but I will refer to some salient points. After setting out the statutory requirements that builders must have insurance and the like, the solicitor, a well-known practitioner in north-eastern Victoria, states:

> Rather than providing comfort to builders, the policies indemnify the builder's customer, and allow the insurer full recourse against the unfortunate builder. Thus, if a successful claim is made by a consumer, the builder is first obliged to bear the cost of any rectification. If he fails to do so, the insurer has the responsibility of paying for the necessary work, but then has the right to recover the cost completely from the builder. Thus, it is a statutory insurance scheme which is designed to protect consumers, not the building practitioner. The insurance policy has little comfort for the building practitioner and if he does not have one, he cannot conduct his business.

We know that that is the situation. However, as Mr Hallam said, it is a different sort of insurance policy from what we normally understand an insurance policy to be. The solicitor goes on to state:

> I cannot criticise all insurers in the field, but I am very critical of the approach which has been taken by your original insurer … Quite apart from the inefficiency it has demonstrated in processing your proposal, I believe that the 'general deed of indemnity' which it requires all directors of your company to sign before granting insurance, is a most unfair document. Directors of your company are required to absolutely indemnify the insurer against any claim which it pays, but the insurer has a completely unfettered ability to amend the terms of policies in future, cancel a policy or refuse to accept one. Even if it does this, the guarantors are still bound by the deed.
>
> Further, although the guarantors are the very building practitioners who are required by law to be insured, they have no right to direct the insurer how to deal with a claim, and cannot ever revoke the guarantee. I have some doubts about the enforceability and drafting of the document itself, but I have no doubt about its intention. It is quite unfair.
>
> The building industry seems to be in a particularly disadvantaged position. The form of insurance required is compulsory under the Building Act. A builder cannot carry on his business without it. Yet there is no statutory guarantee fund or anything similar which is there to protect the consumer, and the builder, if an insurer fails. The example provided by the HIH collapse is obvious.

I think that sums it up. When the system was changed in the 1990s the possibility and ramifications of there being a collapse of one of the major providers of the building guarantee were not sufficiently thought through. That has now occurred, and the government has had to introduce this legislation. It may well be that the Parliament has to revisit this issue.

I conclude my reference to the document stating the builder's problems. On receiving the solicitor's document advising not to sign the deed, he states:

> … We must sign the indemnity or shut down. The indemnity gives the insurance company unrestricted access to our personal assets. For us, this means our home and a workshop/storage facility. My solicitor advises against signing but we have no choice … I cannot, in good conscience, put our long-term and dedicated employees out of work and put ourselves out of business, although it is against my better judgment to sign this document. The terms are such that there is no risk for the insurer. Is this insurance? Why pay a premium if there is no risk for the insurer?

That is a good question. The person has also taken the matter up with the Australian Securities and Investment Commission. Although it cannot do much within the terms of its act it has been quite sympathetic and thinks this person might have a case for unconscionable conduct against their insurer.

That may well be so, but this is a builder in a small country town and it is a husband and wife operation. It is asking a bit much to imagine their fighting one of the largest insurers in the land in the courts.

Hon. R. A. Best — Daunting.

Hon. W. R. BAXTER — Daunting indeed, Mr Best.

In speaking in support of the bill I take the opportunity to say that Parliament might need to go further. This is not an isolated example; I am sure this is happening all over the place, and Mr Strong alluded to it to some extent. This person is asking for help. Parliament and the government need to look at this. This situation was unforeseen in the middle 1990s, and this has been a tragic and costly demonstration. We need to have a very good look at the system to see if it can be improved.

Hon. K. M. SMITH (South Eastern) — I think we have all heard the saying that all banks are bastards; after listening to Mr Baxter I think we can nearly say that all insurance companies are bastards as well. The groups that will not lose out of this are the insurance companies and the banks. The banks have builders or people holding mortgages over new homes by the short and curlies, as some people would call it. Firstly, if they take out overdrafts and have the security to back it up builders can get as much money as they like. Secondly, the people who have borrowed the money are in a position to pay off their mortgages for a lot longer because they are already paying on money they have borrowed so far. So suddenly two groups are gaining great advantage out of this.

This government action is too little, too late. For weeks and weeks the Minister for Small Business was constantly harping about what the federal government should be doing. She spoke constantly about what the federal government was not doing. The government's action is too little, too late because the $35 million package is spread over seven years and half of it will come from the building industry. We all know who will pay for it in the long run — the community.

Minister Kosky in the other place prattled on about what the federal government should be doing. That was rubbish. It would have been much better if the government had reacted sooner, but it has waited too long to introduce the legislation. It is not good enough. The government is ripping stamp duty out of consumers, and the minister and her colleagues have been ripping money out of people with insurance policies with HIH and with other insurance companies. The government is putting that stamp duty into its pockets and contributing nothing to the industry. Minister, it is too little, too late.

How many jobs will be lost because the government has been fiddling while the building industry is burning? Many jobs will be lost as builders stop working. It will have a flow-on effect, not just for the builders and people who work for them — the subcontractors, the people working in the industry who supply the builders, manufacturers of whitegoods such as fridges and washing machines and the manufacturers of clothes lines. The salvage package will not flow to owner-builders, the mums and dads who are building their own homes. They will not be able to continue unless they can obtain insurance and they are not likely to get that insurance in a hurry because the builders will be lining up first. They will have to get it through other insurance companies. Spec builders will not get insurance cover, and they are probably the biggest employers in the Victorian building industry. Minister, you have not done enough to cover them. It is too little, too late. Builders are going broke and will continue to go broke over a long period. This bill will not solve the problems of the building industry.

Hon. S. M. Nguyen interjected.

Hon. K. M. SMITH — You would not know anything about it, Mr Nguyen. I know how the industry operates and the flow-on effect. The collapse will affect the building industry for a long time. The government has acted too slowly.

My colleagues have made good contributions to the debate. Ms Mikakos's contribution was terrible. She blamed the federal government when the Bracks government should have acted much sooner. The government should quickly consider any other action it may take.

The legislation is just putting the finger in the dike, but many people will be hurt. My electorate officer and her husband, who are not young people — probably around my age — are building a new home at long last and they are now stuck with a house frame that is not finished. They have purchased the whitegoods, the fridge, hotplate, canopy and washing machine, on the basis that the house will be finished. The builder has stopped work and cannot get any more money from the bank. He is owed about $300 000 or $400 000 from other jobs. He is just about broke and if he goes broke it will be because no quick action was taken by the government to solve the problem. The bill is one small step, but will do nothing to help people like my electorate officer and her husband with the problems they are facing. The bill is too little, too late.

Hon. P. A. KATSAMBANIS (Monash) — The opposition has agreed to pass the bill in the briefest possible time to protect the public of Victoria. Insofar as the bill goes, it provides protection. Previous speakers have outlined how it will protect consumers caught up in the collapse of HIH. The bill will provide that protection, but unfortunately the government has acted too late and has done too little to address the real problems emerging as a result of the collapse. It has protected insurers with a run-off of the compulsory statutory insurance cover, but it has done nothing to facilitate the building trade and ensure Victorian builders can continue building. It demonstrates by its actions that it has little understanding of the building industry in Victoria. The industry is not only important for economic growth and as a generator of employment, but also in the simple way the industry operates and how it is regulated by government.

The government has ensured that the Building Control Commission will not suspend or de-list builders registration up until 31 July because they have not obtained insurance cover. That is well and good, but that is the cover builders need for registration. There is a separate insurance builders need before they can start each and every project. The government has done nothing to facilitate the approximately 1300 builders in Victoria with at least 2000 projects valued in excess of $3000 million who cannot get insurance. The insurance is mandated by government statute. It is a statutory requirement that is a prerequisite for commencing a building job. The government has delayed the deregistration of builders who cannot get insurance, but it has not enabled them to obtain the insurance necessary so they can commence building. Builders without cash flow that have put up their businesses and own homes as collateral are at risk. Consumers are waiting for their houses to be built; some houses have not started and some have commenced but are unable to be completed. A tranche of subcontractors rely on building contractors to provide them and their employees with employment. The lives and dreams of thousands of people are going up in smoke because the government has acted too little, too late.

Builders in my office are not just complaining but are offering solutions and I have referred to some of them during a recent adjournment debate. The government has done nothing to facilitate the industry getting back to work. Despite its rhetoric and the good things the bill does, the government has forgotten about getting builders back to work, and for that it should be condemned.

Another issue not addressed is stamp duty on new insurance policies that people are taking out to replace policies they previously had with HIH. The New South Wales government dealt with the issue. It decided to

look after the people of New South Wales who had to take out new insurance policies as a result of the collapse and has rebated the stamp duty. The Bracks government has not done that, and it should explain to the people of Victoria why it has not done so.

Do government members want to talk about the federal government? This is about what the state government will do. It has done too little too late and has imposed the majority of the cost of its policies and plans in this area on new building contracts.

What has the Howard government done? It has committed over $600 million to bail out consumers affected by the HIH collapse. If government members want to throw brickbats at someone else in another place — maybe some honourable members on the other side want to be in that other place — why don't they go there! This is about this government acting to protect Victorians, not about passing the buck or blaming someone else. It is not about blaming world poverty, pestilence, war and every other bad thing that has befallen mankind on the Howard government; this is about the Bracks government taking responsibility under the Victorian legislation. It is about taking responsibility for the fact that it is a Victorian statute that mandates builders having to have insurance in order to commence building projects.

It is incumbent on the government, having imposed and continuing to impose that legislative burden, to do something about it when it is clear that the market for insurance is not a true market where there is market failure. Thousands of builders with thousands of building projects that are worth more than $300 million are waiting, ready, willing and able to work, with subcontractors and employees waiting to work. Victorians are waiting for their houses to be built. What is the Bracks government doing? Nothing. It is sitting on its hands and trying to pass the buck to anybody it can find.

In a moment I will probably hear from the Bracks government that perhaps the United Nations should intervene. It is not the fault of the Howard government or the United Nations; it is the fault of the Bracks government. The building industry has slowed down in this state because the Bracks government has done too little too late.

Motion agreed to.

Read second time.

Third reading

Hon. M. R. THOMSON (Minister for Small Business) — By leave, I move:

That this bill be now read a third time.

I thank honourable members for contributing to the debate. The Honourable Roger Hallam raised a matter in relation to the fifty-fifty arrangements of the fund and asked how they would work and how they would ensure that there would be only a 50 per cent contribution from the building industry.

I have been informed that in the first couple of years the majority of funds would come from appropriations, with $2 million per annum from the industry levy on building permits and an annual assessment of the fund. The fifty-fifty arrangements will be made public. It is believed that at about the three and a half to four and a half year mark we will have a greater understanding of what is required.

About 80 per cent of the claims will have been made by that time, and a judgment will be made for the remaining period of the fund so that we do not exceed 50 per cent of the levies contributed by the industry. The industry levy at this stage is intended to be $2 million a year for about seven or eight years. If it proves to be unnecessary to continue it because the claims have been met, that would cease. There is also a sunset clause on the levy.

Hon. R. M. Hallam — Can you confirm that the first allocation is by way of Treasurer's temporary advance?

Hon. M. R. THOMSON — The first allocation is by Treasurer's advance and then by appropriation after that.

Hon. R. M. Hallam — What is the first Treasurer's advance likely to be?

Hon. M. R. THOMSON — About $10 million.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

ADJOURNMENT

Hon. M. M. GOULD (Minister for Industrial Relations) — I move:

That the house do now adjourn.

Boating: ramp lighting

Hon. R. H. BOWDEN (South Eastern) — I raise with the Minister for Ports the issue of lighting at boat ramps. Around Port Phillip Bay and throughout Victoria there are a significant number of boat ramps that are used by many recreational boats and trailable yachts. According to information I received from the library, in 1999–2000 some 134 641 small recreational boats were registered.

The problem is that at 5.00 a.m., which is often when people use the ramps, depending on the tides and circumstances, or when people arrive back at a boat ramp after dark, the boat ramps are poorly lit and there are narrow, high mooring facilities and slippery surfaces. Serious accidents have been recorded from time to time.

The previous government and the current government have invested significant amounts of money in upgrading the ramps, but I believe the lighting is in the main totally inadequate and requires urgent re-engineering, particularly with the winter months coming up when work could be done with little inconvenience to have the ramps ready for the next summer period.

Will the minister urgently investigate the unacceptably low level of general lighting at popular boat ramps throughout Victoria to improve lighting levels and provide a much higher degree of safety for boat operators?

Geelong Field Naturalists Club

Hon. E. C. CARBINES (Geelong) — I raise a matter with the Minister for Energy and Resources in her capacity as the representative of the Minister for Environment and Conservation in the other place. I wanted to raise this matter on World Environment Day, but as it is just past that time it is still appropriate to recognise and support the contribution of community groups that work as volunteers to conserve the environment we all share. One such community group is the Geelong Field Naturalists Club, which in the past year has worked with the Friends of the Brisbane Ranges to produce and install interpretive signage for the Ted Errey Nature Circuit in the Brisbane Ranges. Last year Parks Victoria awarded the two groups $12 000 for the completion of the work.

Recently I received a letter from Ms Alison Watson, honorary secretary of the Geelong Field Naturalists Club, who states:

> We have worked extremely hard to produce accurate and excellent signs using Phil Ingamells from Castlemaine. We have had a number of setbacks along the way, including the introduction of GST, and the final cost now is $7000 greater than our grant.
>
> We have approached Parks Victoria for a top-up grant, but it seems that this is unlikely at this stage. Our options now are to find the funds to pay the extra ourselves and finish the project or to have an incomplete project and apply for a grant again next year in the hope of being successful. We would really like to be able to complete the project this year.
>
> We are confident this project has real value. About 80 000 people visit this national park each year, and the signage on five popular walking tracks is designed to not only directly inform but to stimulate the visitors' interest and curiosity in nature.
>
> It seems that if environmental groups are left to shoulder financial burdens they may be reluctant to pursue future community grants projects. We would like to know if there are any funds available that we could access.

I would appreciate the minister's urgent consideration of the request for extra funding and her advice on this matter.

Crime: Gippsland victims assistance

Hon. P. R. HALL (Gippsland) — I raise with the Minister for Small Business, as the representative in this house of the Attorney-General, a review of counselling services for victims of crime. The minister will be aware that I have raised previously in the house my concern about the lack of funding for counselling services for victims of crime.

I am aware that the government is undertaking a review of counselling services for victims of crime and I understand the review panel is to be chaired by the honourable member for Burwood in the other place. I ask the minister to request the Attorney-General to have that review panel visit the Gippsland region and be prepared to receive public submissions as part of the review process in that region.

People in Gippsland have made extensive use of the victims of crime assistance program in the past. The service is run in Gippsland by Latrobe Community Health. It advises me that in the past year alone, 754 victims of crime were assisted through the victims assistance program, 489 of whom were referred for counselling — that is, three times the current rate of referrals in metropolitan areas. It is an important service for country Victoria and particularly for Gippsland. It would be well worth the review panel visiting Gippsland, and I ask the Attorney-General to ensure that happens.

Narre Warren South primary school

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I raise with the Minister for Sport and Recreation, as the representative in this house of the Minister for Education, the proposed Narre Warren South primary school, a matter I have raised previously. To recap the history, I indicate that in early 1999 the former Minister for Education, Phil Gude, proposed that the Narre Warren South primary school be built and opened at the commencement of the 2002 school year.

In the lead-up to the 1999 election, in an act of one-upmanship, the honourable member for Dandenong in the other place, now the Minister for Gaming, and the then Leader of the Opposition said that because the Kennett government proposed to open the school in 2002, the Bracks government would build it and open it in 2001.

Hon. N. B. Lucas — It is not there.

Hon. G. K. RICH-PHILLIPS — That is right, Mr Lucas, it is not there. Following the change of government it became apparent to the Bracks government that it would be difficult for it to build the school by 2001. Immediately before Christmas last year the government convened a meeting, which about a dozen people attended. The Minister for Gaming put on the table the options of, 'You can have your primary school in 2001 or the Bracks government will give you a combined primary and secondary school for 2002'. The residents at the meeting decided to go with the latter option. They were promised a primary-to-year 12 school in Narre Warren South to open in 2002.

That school is under construction and I hope it will open in time for the beginning of the 2002 school year. The local community at Narre Warren South has been informed that although the school is being built for years P–12, next year the school will not take year 8 enrolments, as was previously promised by the government. Many parents in the Narre Warren South area who have children currently in year 7 at other schools had expected to be able to enrol them at the new school for next year, but they have now been told by the Department of Education, Employment and Training that will not be possible.

The department said that in order to run a year 8 program next year and in later years the school needs an enrolment of about 100 students for that year 8 stream. The parents have told the department they will be able to get that number of students. I ask the Minister for Education take on board the parents' commitment to have 100 students enrolled and to provide the year 8 classes the residents want.

Environment: greenhouse strategy

Hon. G. D. ROMANES (Melbourne) — I refer a matter to the attention of the Minister for Energy and Resources, as the minister coordinating the government's greenhouse strategy. Recently an announcement was made in the federal budget of a tax concession of about $3000 per company car and about $30 000 per truck for the purchase of new semitrailers, rigs or other large vehicles of that kind. That represents a subsidy for transport that has considerable negative impacts on our environment. The subsidies would be for less sustainable vehicles as opposed to sustainable transport options, such as public transport or rail freight.

The announcement also represents subsidies for dangerous vehicles given that about 2000 fatal accidents involving semitrailers have occurred in the past 10 years, which is four times the rate of those killed in the Vietnam war, when 496 Australians were killed. I ask the minister to consider what impact the federal tax concessions will have on Victoria's greenhouse gas emissions and what response Victoria might make to the greenhouse strategy being developed by the government?

Skate parks: Shepparton

Hon. E. J. POWELL (North Eastern) — I raise an issue for the Minister for Sport and Recreation. He will be aware that sports grants have been or will shortly be determined. I understand the Shepparton community has applied for a grant for a skate park at Shepparton, the funding requested being for a total construction cost of $300 000. They are asking for $150 000 from the state government, $100 000 from the City of Greater Shepparton and $50 000 from the community.

The community has already started its fundraising appeal. I was pleased to be able to contribute something at a recent auction when $5000 was raised towards the community's contribution to the park. The young people in Shepparton desperately need a skate park. They need a place to meet and enjoy their sport. They are concerned that in the past six months a number of towns in the area — Tatura, Kyabram and Seymour — have had skate parks built.

There have been delays in Shepparton, as the community needed to determine where the skate park would be located. The council released a survey in which it identified possible locations. The community has identified a suitable location even though some

individuals have concerns about it. Delays have occurred because of the siting of the park. Will the minister advise whether the skate park will be funded and by what amount?

Women: telephone research

Hon. ANDREA COOTE (Monash) — I refer a matter to the Minister for Small Business, as the representative in this house of the Minister for Women's Affairs. A constituent advised me that she was disturbed by a telephone call she had received from a research company acting on behalf of the Bracks government.

The caller identified themselves and said the company was conducting research into levels of satisfaction with local government. The researcher asked the person who answered the call if they could speak to the man of the house. I find that insulting to women in general and to female home owners. Will the minister explain why the government thinks the man of the house would be more able to answer questions that are relevant to male and female residents?

Mildura courthouse

Hon. B. W. BISHOP (North Western) — I raise a matter with the Minister for Small Business, as the representative in this house of the Attorney-General. Over the next few weeks the house will debate the budget so it is appropriate that I raise tonight the issue of the Mildura courthouse. Amid great fanfare during the last budget the Attorney-General announced that the Mildura courthouse would be built and that $8.9 million would be allocated for it over this and the next two financial years.

What have we seen? No real results yet, despite the establishment of a committee to decide where the courthouse would be located. I commend Cr Peter Byrne, who has done an extremely good job in chairing the committee, which had narrow terms of reference. I am sure he would have appreciated a wider scope from which to pick where the new courthouse would be built.

This inaction and indecision has been particularly frustrating to the people of Sunraysia. It could have been solved very early. I suggested an innovative proposal to co-locate the courthouse and the police station, which are soon to be built, with the fire brigade, the ambulance service and the State Emergency Service to make up a justice and emergency services complex that could have been built on the old Mildura hospital site. It received interest locally, but would the Attorney-General consider the proposal? The answer was a resounding no.

I suspect the government must now be having great difficulty in finding a convenient site for the new courthouse. In fact as late as this afternoon we have heard reports that the government may have to compulsorily acquire the property to build a new courthouse. I therefore request the Attorney-General to advise me where the new courthouse will be built and when the work will begin.

Artspace

Hon. I. J. COVER (Geelong) — I draw to the attention of the Minister for Youth Affairs the facility at Camperdown called Artspace. I do not think I have to draw his attention to it too much, given that a photograph of him opening Artspace earlier this year appears in the *Camperdown Chronicle* of 25 May. The situation confronting Artspace today is that its funding is fast running out. The Corangamite Shire Council is concerned about the future of Artspace, which is not only a facility that provides an arts outlet for young people but also a facility for music and recording. The people there hope to one day get their own radio station and recording studio operating from the building that houses Artspace.

The chief executive of Corangamite Shire Council, Peter Johnston, says that the shire has been very supportive of Artspace but is now seeking support from the state government. On page 3 of the *Camperdown Chronicle* quoted as having said :

> We are very disappointed with the state government's attitude on this issue and will continue to lobby for it to stay open.

Cr Brendan Ryan goes further. The article states:

> Cr Brendan Ryan said he had personally lobbied the minister for sport, recreation and youth affairs, Justin Madden, for help in keeping Artspace open.
>
> 'I told Mr Madden in no uncertain terms that the facility was in danger of closing down', he said.
>
> 'I gave him a folio full of newspapers clippings about Artspace and faxed off a letter to his department two weeks ago and asked for an urgent reply, but nothing has been forthcoming'.

Cr Ryan adds:

> 'We're willing to stay with it —

some of the councillors have themselves voluntarily worked to assist in the operation of Artspace —

> but we need the state government to stay with it, too' …

I therefore ask the minister if he can give a response to the Corangamite Shire Council and to Artspace saying that he will assist them with funding so that this facility can keep running to serve the young people of Camperdown and the greater Corangamite shire.

Scotchmans Road, Drysdale: sealing

Hon. BILL FORWOOD (Templestowe) — I raise through the Minister for Sport and Recreation an issue for his colleague the Minister for Major Projects and Tourism in the other place. Very recently I was fortunate enough to spend some time on the Bellarine Peninsula with my colleague Mr Cover and the honourable member for Bellarine in another place, Mr Garry Spry. We had a busy day. We stopped at Drysdale for the purpose of discussing with Mr Murray the prospect of a public lavatory; we went to a very good country adventure park, Country Connections; and we went to Leura Park, which is a new winery on the Drysdale Road.

For me in particular one of the highlights was my visit to Scotchmans Hill Vineyards, where I was very well looked after by Ross Ebbels, who has a terrific facility there. The winery has an issue about Scotchmans Road, a 3.2-kilometre dirt road that runs between the Portarlington–Queenscliff Road and the Drysdale–Portarlington Road.

Hon. J. M. Madden — What's the map reference?

Hon. BILL FORWOOD — Page 94 of the country street directory — an indispensable guide to people who spend time in the country! The issue is that there is now an extraordinary amount of wine tourism, as people know, and Scotchmans Hill is getting a lot of it. The winery is bringing grapes from the Red Hill area on the Mornington Peninsula across on the ferry and down the Portarlington–Queenscliff Road. The vehicle then has to turn up Scotchmans Road so that the grapes can be pressed at Scotchmans Hill Vineyards. The issue is that this is a dirt road, but there is the capacity for the Minister for Major Projects and Tourism, with his colleague the minister administering the Lands Act, to declare the road a tourist road. That would change the status of the road and enable it to receive some funding to be bitumenised, which would be of real use.

It would be very good if the Minister for Sport and Recreation could encourage the Minister for Major Projects and Tourism to go to Scotchmans Hill to meet with the company and discuss with it the prospect of Scotchmans Road becoming a tourist road.

Marine parks: establishment

Hon. PHILIP DAVIS (Gippsland) — I ask the Minister for Energy and Resources to advise whether the $14 million enforcement package is conditional upon the passage of marine parks legislation.

Responses

Hon. C. C. BROAD (Minister for Energy and Resources) — The Honourable Ron Bowden raised the matter of lighting of public boat ramps and requested that the lighting be investigated with a view to improving it in the interests of safety. That is a matter I will consider, and I will respond to the honourable member directly when I have some advice on just what is involved in such an investigation.

The Honourable Elaine Carbines raised for the attention of the Minister for Environment and Conservation a matter concerning extra funding for the Geelong Field Naturalists Club and advice concerning that funding. I will refer that matter to the responsible minister.

The Honourable Glenyys Romanes raised recent federal government decisions regarding tax concessions in the budget for cars and trucks and the impact it may well have on greenhouse gas emissions. These are indeed matters the Victorian government is considering as part of the development of the Victorian greenhouse strategy. Given that transport contributes some 15 per cent of greenhouse gas emissions in Victoria it is a matter we are considering very seriously as part of the government's greenhouse strategy.

In relation to the matter raised by the Honourable Philip Davis concerning the government's marine parks legislation and the package of assistance to industry and enforcement, those matters will come before Parliament for debate. The government considers the enforcement package to be a very important and integral part of the entire package it has put before Parliament and intends that it should be considered as a total package.

Hon. M. R. THOMSON (Minister for Small Business) — The Honourable Peter Hall raised for the Attorney-General a matter concerning the counselling service for victims of crime and the review currently being undertaken. He requested that the review panel visit the Gippsland region and seek public submissions and hearings. I will pass that on to the minister for a direct response.

The Honourable Andrea Coote raised for the Minister for Women's Affairs a matter concerning research purportedly being done for the Bracks government on local government matters and a researcher who asked

for ‘the man of the house’. She asked why there would be a request to speak to a male and why a female would not be adequate. I will pass that on to the minister for her response.

The Honourable Barry Bishop raised a matter for the Attorney-General concerning the Mildura courthouse and asked where and when it will be built. I will raise that matter with the Attorney-General and respond to the honourable member.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — The Honourable Gordon Rich-Phillips asked about the Narre Warren South Primary School. I will refer the matter to the Minister for Education in the other place.

The Honourable Jeanette Powell asked about the Shepparton skate park. I am pleased to announce that the honourable member’s application has been successful and the project will take place. I draw the attention of honourable members to the fact that I was forewarned of that question so I was able to get the information. There are so many projects and so many announcements that no doubt I will have to source them accordingly! I compliment the local council on its fine work on the planning process for the skate facility. One of the important points with regard to establishing skate parks is planning issues, and they need to be comprehensively resolved. I congratulate the local council on doing a thorough job.

The Honourable Ian Cover raised the issue of the Camperdown Artspace and its relationship to the Shire of Corangamite. I remember the program well because it has been very good, and I also remember meeting with Cr Peter Johnson and members of the south-west region at the opening of the Port Campbell Lifesaving Club. That program was established in March 2000 with a pilot seeding grant.

I understand that since then the program has been partially funded by the Corangamite Shire Council, but I am also advised that funding is being sought through Vichealth programs. I am awaiting clarification as to whether that application has been successful. The program sits with the Minister for Post Compulsory Education, Training and Employment, and I am happy to refer any other issues with regard to that program on to the minister.

Motion agreed to.

House adjourned 1.23 a.m. (Wednesday).